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Public Service Commission

March 27, 2002

VIA ELECTRONIC FILING

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

RE: Docket No. ER02-700-000, Florida Power & Light Company

Dear Ms. Salas:

Forwarded herewith are a Motion to Intervene Out-of-Time and a Request for Rehearing of the Florida Public Service Commission in the above-captioned proceeding.

Sincerely,

/ s /

Cynthia B. Miller, Esquire
Bureau of Intergovernmental Liaison

CBM:tf

WHEREFORE, the FPSC initially asserts that it has direct, material, and substantial interest in the proceedings that cannot be adequately represented by any other party. Accordingly, the FPSC respectfully has filed this motion to intervene.

Respectfully submitted,

/ s /

Cynthia B. Miller, Esquire
Office of Federal and Legislative Liaison

/ s /

Harold McLean
General Counsel

DATED: March 27, 2002

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Florida Power & Light Company)
) Docket No. ER02-700-000
)

**FLORIDA PUBLIC SERVICE COMMISSION
REQUEST FOR REHEARING**

On February 28, 2002, the Federal Energy Regulatory Commission (FERC) issued an order (Order) in the Florida Power & Light Company docket listed above. The Order addresses important interconnection issues relating to the assignment of switchyard costs, interconnection study costs, and acceleration for lower-queued generators, security requirements and more. Pursuant to 18 CFR, Section 385.713, the Florida Public Service Commission (FPSC) seeks rehearing and deferral of the provision in this Order relating to cost recovery until the FERC has entered the deliberative process in a rulemaking proceeding. Indeed, the FERC has such a pending rulemaking, Standardizing Generator Interconnection (Docket No. RM02-1-000).

The alleged errors in the Order are: (1) the FERC made its decision on cost recovery of switchyard costs in a manner that did not fully consider the ramifications; (2) the pending rulemaking on Standardizing Generator Interconnection is a better forum for this issue; and (3) the Order should expressly recognize and provide that State Commissions have flexibility and authority over retail rates.

- (1) The FERC issued its decision on cost recovery of switchyard costs in a manner that did not fully consider the ramifications.

The FERC has made a policy decision in this Order which has not been fully debated. The decision has major impacts.

The FERC also has an obligation to engage in “reasoned decision making.” This was addressed in *FPL v FERC*, 85 F. 3d. 684 (D.C. Cir. 1996). In the case, the Court noted: “While we are quite sympathetic to FERC’s implicit claim that we should cut it some slack in this era of wide-ranging reform, allowing it to devote its intellectual resources primarily to the broader picture, we find that the FERC’s explanation here fails to meet the basic reasoned decision making requirement.”

Through this fuller process, the FERC could explore the issues. For example, approximately 10% of FPL’s load is wholesale and 90% retail. We question whether there might be a subsidization issue unless the switchyard facilities are used for the whole 90% retail load. This is one of the potential issues for the FERC rulemaking. Yet, these new decisions are occurring prior to the full exploration of the issues. The regulatory principle of cost assignment and cost causation should not be rejected lightly.

The FERC staff’s recent white paper, “Federal Energy Regulatory Commission Working Paper on Standardized Transmission Service and Wholesale Electric Market Design” highlighted the complex ramifications of these interconnection matters. At page 2, the FERC paper states:

Market design flaws are visible in every regional electric market today under the existing tariff. These flaws are allowing operational problems such as the “socialization” or “uplift” of congestion management prices across all customers in a region, which obscures the potential for price signals to indicate where new generation, demand response or transmission is needed. In other regions, high fees are being collected for the value of generation capacity that do not clearly incent the construction of new capacity. A third type of flaw has been the sequential clearing of energy and ancillary service

Also, at page 6, the FERC paper notes that while price signals should support efficient decisions about consumption and new investment, they are not full substitutes for a transmission

planning and expansion process that identifies and causes the construction of needed transmission and generation facilities or demand response. In short, the FERC's action in the instant docket stepped out ahead of its rulemaking on these issues and did not consider the ramifications. This does not comport with the required "reasoned decision making" standard.

- (2) The pending rulemaking docket on Standardizing Generator Interconnection is a better forum for the cost recovery issue.

It appears that the FERC did not consider the potential ramifications of the cost recovery policy decision in this Order. The rulemaking docket is the better forum for taking up these policy issues.

The pending rulemaking, Standardizing Generator Interconnection (Docket No. RM02-1-000), enables the FERC to work with state commissions' assistance. The FPSC filed comments in that docket which urged the FERC to consider the potential for inefficient location of generating units and increased costs to retail ratepayers resulting from the spreading (socialization) of generator interconnection upgrade costs to all transmission customers. We also noted that the FPSC is conducting a workshop (April 24) on these issues. We suggested that the comments we receive at the workshop should provide information useful in addressing these issues at both the state and federal level. However, the FPSC is now concerned that by taking these steps in the instant docket, the FERC will not receive the benefit of the full input of State Commissions on these important matters.¹ The Federal-State partnership is to the benefit of FERC. State Commissions hold

¹ The FPSC would request that the new FERC Division of State Relations, in its role to coordinate outreach efforts with the states and to act as a clearinghouse for information and inquiries from states within each region, could seek input from the state commission on these FERC decisions that have a great impact on the industry we regulate and on retail ratepayers. FPSC staff contacts are Jim Dean, (850/413-6058) and Cindy Miller (850/413-6082).

evidentiary hearings and have workshops to hear directly from the affected industry stakeholders and consumers. The State Commissions, in turn, will provide this valuable information to the FERC.

In the Standardizing Generator Interconnection rulemaking, the FERC announced a 2-stage rulemaking. The issues on cost recovery were to be addressed in a later stage yet to be announced. Thus, it seems contradictory for the FERC to issue this cost recovery order at this time, prior to the second stage of the rulemaking.

In the rulemaking, the FERC could consider the differences in transmission among the regions. For example, because of Florida's peninsular nature, the Florida Reliability Coordinating Council (FRCC) bulk power system has a greater exposure to separation of its transmission system from the rest of the interconnected grid than do other regions of the Eastern Interconnection.²

The rulemaking docket should be expedited and the FERC should combine the two rulemakings on Standardizing Generator Interconnection. The cost recovery phase of the docket on Standardizing Generator Interconnection costs should be consolidated with the other parts of that

² As the FPSC stated in its November 27, 2000, filing at the FERC in Docket No. RT01-67-000:

Because of its geography, Peninsular Florida is unique. The bulk transmission grid in Peninsular Florida has interconnections only to the north with the Southern Company along the State's northern border with Georgia. Prior to about 1980 these interconnections consisted of several smaller 230 KV and 138 KV transmission interties which, at maximum, could only be used to import about 400 MW of capacity. As a result of reliability concerns and efforts to reduce Florida's dependence on oil-fired generation, certain peninsular Florida utilities constructed two major 500 KV transmission lines which interconnect with Georgia and extend the length of Florida's east coast. The addition of these lines increased the maximum transmission import limit into peninsular Florida to its present level of 3,600 MW; the maximum export limit is 2,400 MW. While this represents a significant increase in peninsular Florida's interchange capability, the 3,600 MW import limit represents only about 8.96% of total peak demand in peninsular Florida. Further, past studies performed at the request of the FPSC by the Florida Reliability Coordinating Council (FRCC - formerly the Florida Electric Power Coordinating Group) have indicated that even modest increases to this capacity would be costly, entail long transmission line additions, and involve considerable time in siting due to environmental concerns.

docket and expedited. The cost recovery issues are the crux of these interconnection matters. Another issue that needs full exploration through the rulemaking is queuing. Questions would include: What criteria and milestones should be applied to projects which have not committed capacity to retail load? Thus, the FERC should not further delay that phase of the rulemaking.

- (3) The Order should expressly recognize that State Commissions have flexibility and authority over retail rates.

The Order deleted the “regulatory out” clause. We note that State Commissions have authority over retail rates. If the FERC makes decisions impacting retail rates, the FPSC will, in turn, exercise its jurisdiction. The FERC must recognize that authority of State Commissions.

Conclusion

In conclusion, the FERC should complete the Standardizing Generator Interconnection rulemaking prior to implementing the cost recovery provision of this Order. Therefore, the FPSC respectfully requests that the FERC grant this request for rehearing.

Respectfully submitted,

/ s /

Cynthia B. Miller, Esquire
Office of Federal and Legislative Liaison

/ s /

Harold McLean
General Counsel

DATED: March 27, 2002

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Florida Power & Light Company)
) Docket No. ER02-700-000
)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing Motion to Intervene Out-of-Time and Request for Rehearing of the Florida Public Service Commission will be sent today by U.S. Mail to all parties on the attached service list.

/ s /

Cynthia B. Miller, Esquire
Office of Federal and Legislative Liaison

FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Boulevard
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DATED: March 27, 2002

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ER02-700

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