

STATE OF FLORIDA

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Public Service Commission

August 2, 2002

VIA ELECTRONIC FILING

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

RE: Docket No. EL02-101-000, Cleco Power LLC et. al.

Dear Ms. Salas:

Forwarded herewith are a Notice of Intervention and Comments of the Florida Public Service Commission in the above docket.

Sincerely,

/ s /

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

CBM:tf

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

| | | |
|--|---|-------------------------|
| Cleco Power LLC |) | |
| Dalton Utilities |) | |
| Entergy Services, Inc. |) | |
| Georgia Transmission Corporation |) | |
| MEAG Power |) | Docket No. EL02-101-000 |
| Sam Rayburn G&T Electric Coop., Inc. |) | |
| South Carolina Public Service Authority |) | |
| South Mississippi Electric Power Association |) | |
| Southern Companies Services, Inc. |) | |
| Tallahassee, City of |) | |

**FLORIDA PUBLIC SERVICE COMMISSION
NOTICE OF INTERVENTION**

Pursuant to Rule 214(a)(2) of the Federal Energy Regulatory Commission (FERC) Rules of Practice and Procedure, the Florida Public Service Commission (FPSC) hereby files its Notice of Intervention.

COMMUNICATIONS

Pursuant to Rule 203(b)(3) of the Federal Energy Regulatory Commission (FERC) Rules of Practice and Procedure, the following persons are designated for receipt of communications and service on this proceeding:

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INTERVENTION

This intervention relates to the June 27 filing of a Petition for Declaratory order in the above docket. The FPSC, pursuant to Chapters 350 and 366, Florida Statutes, is given the authority to regulate electric utilities within the State of Florida and to exercise the police power of the state for the protection of the public welfare. Section 366.015, Florida Statutes, encourages participation by the FPSC in Federal agencies' proceedings that affect those utilities over which the FPSC has primary regulatory jurisdiction.

Gulf Power Company, a member utility of the Southern Company who is a sponsor of the SeTrans proposal, is an electric utility regulated by the Florida Public Service Commission.

WHEREFORE, the FPSC has timely filed this notice of intervention.

Respectfully submitted,

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

DATED: August 2, 2002

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

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| South Carolina Public Service Authority |) | |
| South Mississippi Electric Power Association |) | |
| Southern Companies Services, Inc. |) | |
| Tallahassee, City of |) | |

COMMENTS OF THE FLORIDA PUBLIC SERVICE COMMISSION

The Florida Public Service Commission (FPSC) files these limited comments on the Petition for Declaratory Order filed by the SeTrans Sponsors. Gulf Power Company, a member utility of the Southern Company who is a sponsor of the SeTrans proposal, is an electric utility that serves approximately 374,000 retail customers in the panhandle of Florida. It has service territory stretching from the Appalachicola River to the Alabama state line. Gulf Power is subject to the regulatory authority of the Florida Public Service Commission under Chapter 366, *Florida Statutes*. The FPSC has regulatory authority over the rates and charges of Gulf Power and has statutory authority over generation and transmission expansion planning, grid reliability, and quality of service.

Transmission Expansion Funding Protocol

First, we urge the FERC to approve the SeTrans ISA Transmission Expansion Funding Protocol. Recently, the FPSC filed comments in FERC Docket RM02-1, Standardizing Generator Interconnection Agreements, where we urged that the FERC modify its current pricing practice for interconnection upgrades of socializing nearly all interconnection and transmission costs to all users of the transmission system. We requested that the FERC establish a consultative process whereby

state commissions in bundled states be permitted to file allocations of both costs and benefits to grid users and that the FERC use these allocations in its rate setting process. Failing this, we urged the FERC to once again adopt the “but for” test which better accomplishes a cost causer assignment procedure.

The SeTrans Transmission Funding Protocol comes closer than the FERC’s current policy to this regulatory philosophy of allocating costs and benefits to those creating the cost and receiving the benefits. Under the SeTrans funding protocols, base transmission upgrades required to maintain existing financial rights and maintain existing reliability standards are borne by all users of the system. Incremental upgrades of the transmission system are funded by those participants requesting the upgrades. The SeTrans proposal extends this concept in a direct manner by assigning the benefits of any newly created financial transmission rights (FTRs) to the party requesting the upgrades. Thus, cost responsibility is more closely aligned with causation. ***For these reasons, while the FPSC has some concerns about the infra-marginal investments, we urge the FERC to accept the Funding Protocol being offered by the SeTrans sponsors.***¹

Deference to State Commission Authority

We support the SeTrans proposal for its recognition of state commission authority in several areas that are exclusively state jurisdictional. These provisions are located in Attachments F, I, and J. For example, in the section on pricing protocol, the filing asserts that protecting retail native load customers and wholesale customers with existing contracts is a critical element of the proposal. SeTrans notes in view of the fact that there are eight different states involved with regulatory

¹The FPSC does have some residual questions about the equity implications of how FTRs are allocated with respect to infra-marginal investments. We urge the SeTrans sponsors to re-examine this section of the Funding Protocol in their next filing with the FERC.

commissions setting retail rates, “there is substantial concern that native load and wholesale customers with existing contracts not experience significant or unjustified costs shifts.” The SeTrans pricing protocol is aimed at accomplishing that goal.

Second, in the Planning Protocol section, the filing notes that the SeTrans ISA (independent, third-party operator) will have the responsibility for issuance of the annual transmission expansion plan “subject to review by the Public Service Commission or other government organizations with the legal authority to approve individual projects.” Our reading of the Planning Protocol indicates that if participating utilities are subject to state public service commissions and have obligations for serving retail load, that these utilities can make necessary transmission upgrades outside the parameters of the ISA developed Annual Transmission Expansion Plan. Such upgrades could be undertaken by that utility on its own initiative or undertaken pursuant to an order of a state commission. We recognize that the funding of such an upgrade would be the responsibility of that utility.

Third, we note that under the Installed Capacity Requirements (ICAP), the proposal states that for utilities that remain bundled, generation reserve requirements are being adequately addressed through existing regulatory, legal, or contractual planning requirements and therefore such utilities are not subject to a ISA default ICAP requirement. With respect to Gulf Power, the FPSC via the annual Ten Year Site Plan process has a continuous obligation to review the adequacy of Gulf’s planning reserves to meet its load serving obligations. Therefore, we agree that existing regulatory oversight for both planning and ICAP reserves properly remain with the state public service commissions.

Also, SeTrans notes that any of its transmission planning processes will be in accordance with applicable federal, state, and local regulations, licenses, and requirements.

Lastly, SeTrans lists, utility by utility, what other regulatory bodies will be involved. As to Southern Company, the company is regulated by State Public Service Commissions of Alabama, Florida, Georgia, and Mississippi. “All of these State Commissions have general supervisory authority over jurisdictional utilities and regulate their retail rates. As such, the State Public Service Commissions are expected to assert jurisdiction over the participation of their regulated utilities in an RTO.” The filing adds, “There does not appear to be any specific time frame within which the State Public Service Commissions must act.”

Thus, SeTrans has recognized the pivotal role of state Commissions in this RTO endeavor.

Conclusion

In conclusion, the FPSC files these limited comments in support of the SeTrans provisions on the Transmission Expansion Funding Proposal and the SeTrans provisions recognizing state commission authority.

Respectfully submitted,

/ s /

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

FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Boulevard
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DATED: August 2, 2002

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Cleco Power LLC)
Dalton Utilities)
Entergy Services, Inc.)
Georgia Transmission Corporation)
MEAG Power) Docket No. EL02-101-000
Sam Rayburn G&T Electric Coop., Inc.)
South Carolina Public Service Authority)
South Mississippi Electric Power Association)
Southern Companies Services, Inc.)
Tallahassee, City of)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing Comments 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

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DATED: August 2, 2002

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