

STATE OF FLORIDA

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Public Service Commission

December 19, 2001

VIA ELECTRONIC FILING

The Honorable David P. Boergers
Secretary
Federal Energy Regulatory Commission
888 First Street NE
Washington, D.C. 20426

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

Dear Mr. Boergers:

Forwarded herewith are Comments of the Florida Public Service Commission in the above-captioned proceeding.

Sincerely,

/ s /

Cynthia B. Miller, Esquire
Bureau of Intergovernmental Liaison

CBM:tf

**BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

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

FLORIDA PUBLIC SERVICE COMMISSION COMMENTS

The Florida Public Service Commission (FPSC) appreciates the opportunity to provide comments in this rulemaking. The objectives of the FPSC comments are twofold: (1) to urge the FERC not to extend the standards of conduct into a bundled retail environment; and (2) to urge that the rulemaking expressly acknowledge the state commission role regarding standards of conduct.

Potential Changes in Florida's Electric Industry

While the gas industry in Florida is primarily an unbundled environment, the electric industry in Florida and many other states remains a bundled environment not open to retail access. As indicated to FERC in previous comments, Florida is pursuing the development of a competitive wholesale market. The Florida Energy 2020 Commission just completed a report to the Legislature and Governor, and the Legislature may address recommendations during the 2002 session.

With regard to transmission, the FPSC recently found that the GridFlorida companies' active participation in GridFlorida was prudent. The FPSC voted for an Independent System Operator to be formed in peninsular Florida. The ISO will facilitate the development of a more competitive wholesale energy market, as contemplated by FERC Order 2000.

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 is premature to have these standards

in the bundled retail environment. 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 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. 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.

State Commission Independent Authority Over Standards of Conduct

States have independent authority over standards of conduct for electric utilities and their affiliates. For example, the FPSC may take action pursuant to “grid bill authority”¹ to

¹ The following Sections of Florida Statutes constitute the FPSC’s “grid bill authority:”

Section 366.04(2)(c) To require electric power conservation and reliability within a coordinated grid, for operational as well as emergency purposes.

Section 366.04(5) 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(7) The commission shall have the power to require reports from all electric utilities to assure the development of adequate and reliable energy grids.

Section 366.05(8) If the commission determines that there is probable cause to believe that inadequacies exist

adopt analogous rules on standards of conduct. The FERC rules should expressly acknowledge that states may adopt more stringent rules pursuant to the states own statutory authority.

We believe the FERC will benefit from the states' role in enforcement. As an analogy, the Federal Communications Commission (FCC) has seen a need for the state enforcement role against "slamming"--the unauthorized switching of consumers' primary carrier. Thus, we urge that the FERC expressly recognize, in the rulemaking, this important role of state commissions.

In conclusion, the FPSC urges that the FERC not extend the standards of conduct into a bundled electric retail environment and that FERC acknowledge the state commission role over standards of conduct.

Respectfully submitted,

/ s /

Cynthia B. Miller, Esquire
Bureau of Intergovernmental Liaison

DATED: December 19, 2001

with respect to the energy grids developed by the electric utility industry, it shall have the power, after proceedings as provided by law, and after finding that mutual benefits will accrue to the electric utilities involved, to require installation or repair of necessary facilities, including generating plants and transmission facilities, with the costs to be distributed in proportion to the benefits received, and to take all necessary steps to ensure compliance. ...

Section 366.055(1) Energy reserves of all utilities in the Florida energy grid shall be available at all times to ensure that grid reliability and integrity are maintained. ...

Section 366.055(3) To assure efficient and reliable operation of a state energy grid, the commission shall have the power to require any electric utility to transmit electrical energy over its transmission lines from one utility to another or as a part of the total energy supply of the entire grid, subject to the provisions hereof.

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

Standards of Conduct for
Transmission Providers

) Docket No. RM01-10-000
)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the foregoing Notice of Intervention 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
Bureau of Intergovernmental Liaison

FLORIDA PUBLIC SERVICE COMMISSION
2540 Shumard Oak Boulevard
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DATED: December 19, 2001

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