

STATE OF FLORIDA

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# 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



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.

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  
Transmission Providers

) Docket No. RM01-10-000  
)

**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 /

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Cynthia B. Miller, Esquire  
Bureau of Intergovernmental Liaison

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DATED: June 24, 2002