

MEMORANDUM

April 2, 2004

TO: DIVISION OF THE COMMISSION CLERK AND ADMINISTRATIVE SERVICES
FROM: OFFICE OF THE GENERAL COUNSEL (BRUBAKER) JSB
RE: DOCKET NO. 020233-EI - REVIEW OF GRIDFLORIDA REGIONAL
TRANSMISSION ORGANIZATION (RTO) PROPOSAL.

Please file the attached Post-Workshop Status Report, dated April 2, 2004, in the docket file for the above-referenced docket.

JSB/dm

Attachment

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DOCUMENT NUMBER-DATE

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EPSC-COMMISSION CLERK

Post-Workshop Status Report
April 2, 2004

Docket No. 020233-EI
Review of GridFlorida Regional Transmission Organization (RTO) Proposal
Pricing Issues Workshop
March 17-18, 2004

Issue 1 – Regional State Committees (RSCs)

Areas of Potential Agreement

1) Necessity of an RSC

While all parties did not voice unanimous agreement, after extensive discussion, most of the workshop participants concluded that a regional state committee may not be necessary for a single-state RTO. The other three states that have single-state RTOs, New York, Texas, and California, do not have regional state committees.

One stakeholder commented that the purpose of the FERC's RSC proposal was to provide a mechanism for state regulatory commissions whose utilities are involved in a multi-state RTO to have meaningful input into the RTO's decision making process. It was suggested that where the RTO only encompasses one state, as is the case in Florida, there is no purpose for an RSC because the FPSC will, in its normal regulatory capacity, decide these various RTO issues anyway.

Another concern raised is that the FPSC may wish to consider the undesirability of an RSC designation, in light of the procedural complexities that would result from the FPSC acting concurrently, in the quasi-judicial role of state regulator and the advisory role of a regional state committee. It was further offered that it is likely to be both awkward and unnecessary for the FPSC to designate itself as an RSC for the purpose of giving advice to itself.

One stakeholder opined that the FPSC has been delegated certain authority over the GridFlorida Applicants (Applicants) under the legislative mandate of its enabling act, and it will likewise have certain authority over GridFlorida under that same act. Further, while GridFlorida will operate primarily in interstate commerce, certain of its planning and other functions will be subject to FPSC review. It is one stakeholder's belief that the FPSC will presumably exercise whatever jurisdiction it has over both the Applicants and GridFlorida without regard to whether it acts as an RSC. Thus, it does not appear that the FPSC is advantaged in any way by acting as the regional state committee.

The Applicants stated that they were mindful of the concern of whether an RSC is needed in a single-state RTO like Florida that does not have multiple jurisdictions with competing interests and viewpoints that need to be considered.

2) Designation of the FPSC as the RSC

If the FPSC acts as the RSC for GridFlorida, then the majority of the workshop participants agree that the FPSC would act in an advisory role. Further, the majority agreed that the functions of the RSC, as assumed by the FPSC, should be those functions as defined by the FERC's White Paper on Wholesale Power Market Platform (SMD) issued on April 28, 2003, and repeated in the FERC order granting RTO status, subject to fulfillment of requirements, to Southwest Power Pool, Inc. (SPP).

Several stakeholders commented that even if the FPSC has theoretical jurisdiction to act in a decision-making capacity as proposed by the Applicants, it is highly doubtful that it could practicably exercise that jurisdiction. Any formal "act" of the FPSC, such as approving, disapproving, or modifying transmission owner or GridFlorida proposals, is subject to formal due process requirements and to state court review. The stakeholders pointed out that the Florida Supreme Court has the authority to review, upon petition, any action of the FPSC relating to rates or service of utilities providing electric service. With this due process requirement, concern was expressed that RTO decisions in Florida could take extensive time to get through the court system. RTOs, however, need the flexibility to, when necessary, bring rate filings to the FERC on a faster track than what would be permitted by the requirements associated with formal action.

The Applicants stated that the FPSC should, at a minimum, address all areas reserved for RSCs by the FERC in the SMD white paper and the various RTO orders.

Outstanding Questions

Whether an RSC, as a formal entity, is necessary for GridFlorida needs to be determined. If an RSC is considered necessary, then decisions regarding the FPSC assuming that role and whether that role will be in an advisory or decision making capacity will need to be addressed.

Issue 2 – Jurisdictional Responsibilities (Pricing)

Potential Areas of Agreement

1) Filing of tariff terms and conditions and rates and revenue requirements with the FPSC

The GridFlorida Applicants' pre-workshop position provided for all transmission owners to submit transmission tariff terms and conditions and rates and revenue requirements to the FPSC for initial decision before filing at the FERC. This position was developed to recognize the FPSC's decision in its September 2002 Order directing the Applicants to modify the GridFlorida compliance filing to recognize the FPSC's continuing jurisdiction over the total cost of transmission service to retail customers.

It appears that the majority of the workshop participants disagree with providing revenue requirements of non-jurisdictional utilities for FPSC review for initial decision on an RTO rate. However, the participants stated minimal disagreement with providing those documents to the

FPSC for informational purposes, only. The provision of this information by all transmission owners would provide the FPSC with a complete picture of the GridFlorida transmission tariff prior to its filing at the FERC. This may also satisfy the FPSC's directive to ensure its continued jurisdiction of the total cost of transmission service to retail customers.

2) Participation by all transmission owners in decision-making process

Various workshop participants expressed concern that non-jurisdictional transmission owners were limited in their participation in drafting the planning and decision-making process for the RTO. Reference was made to the participation of municipals and cooperatives in the SeTrans process. The Applicants agreed to talk to interested parties about a greater role in the process.

3) Jurisdictional limits

All parties agreed that any role of the FPSC in reviewing and setting rates must be consistent with existing statutory authority, and that the Applicants could not confer upon the FPSC more authority, or take from FERC any of its authority, simply by placing language in the RTO documents.

4) Rate structure

Most parties appeared to accept the proposed rate structure consisting of a zonal rate, a TDU adder, a System Charge and a GridManagement charge, although there were some questions on what costs should be included in specific charges.

Outstanding Questions

The Applicants indicated that they will continue to be sensitive to the concerns expressed by Commission staff and the stakeholders. The Applicants also look forward to continued discussion with all parties on how to implement the Applicants' proposal to reflect the FPSC's continuing jurisdiction over the total cost of transmission service to retail customers.

Issue 3 – Participant Funding

Potential Areas of Agreement

1) Concept of participant funding

It appears that there is general agreement with the concept of participant funding as proposed by the Applicants. The parties, however, raised concerns at the workshop, and in post-workshop comments, that more details should be provided by the Applicants on the meaning of certain terms. One stakeholder, for example, questioned the applicability of the proposal to certain types of interconnections. Another stakeholder questioned the applicability of the proposal to a participant in a Request For Proposal (RFP) that is involved in an interconnection process.

Outstanding Questions

The Applicants provided changes and clarifications to their participant funding proposal in their post-workshop comments. Whether the changes and clarifications satisfy the remaining concerns of the parties will need to be discussed at a future workshop.

Issue 4 – Cost Recovery

Potential Areas of Agreement

1) Appropriate cost recovery mechanism

Most parties offering comments support the concept of cost recovery of GridFlorida costs through either the current Capacity Cost Recovery Clause (CCRC) or some type of capacity cost recovery mechanism. This is consistent with the FPSC's finding in Order No. PSC-02-1199-PAA-EI, issued September 20, 2002, stating, "Each Applicant shall be authorized to recover any incremental transmission costs approved by this Commission through the capacity cost recovery clause."

2) Appropriate method and schedule for identifying incremental costs to be recovered

The Applicants believe the methodology and the level of GridFlorida incremental costs to be recovered should be established 3 to 6 months prior to the start of GridFlorida operation. Those parties providing comments on this issue are in agreement that this issue should be determined in a future proceeding and should consider those transmission costs currently recoverable through base rates. Concern was expressed by a couple of parties regarding assurance that the transmission assets will meet standards for the condition, maintenance, and operation of such assets at the time of transfer of operational control. Again, in its September 2002 Order, the FPSC found that it would ascertain that each applicant is fairly compensated for prudent transmission costs incurred to provide its ratepayers with safe, reliable electric service. The FPSC further stated that it would scrutinize incremental transmission costs to the same degree as any other cost recovered through a recovery clause to determine whether any incremental costs are prudent, reasonable, and consistent with the RTO's goal.

Issue 5 – Cut-off dates for existing transmission agreements and facilities

Potential Areas of Agreement

None. The Applicants are divided on this issue. Most of the stakeholders agree with Progress Energy Florida that the cut-off dates should be December 31, 2000 for new facilities and December 15, 2000 for existing transmission agreements. The Applicants have indicated that they plan to send a data request to all the parties for information necessary to perform an analysis of the financial impact of the various cut-off date proposals.

Outstanding Questions

The results of any analyses on the financial impact of the cut-off date proposals may provide a basis for agreement. If this is not the case, then this issue will need to be litigated.

Issue 6 – Mitigation of short-term revenues concept

Potential Areas of Agreement

1) JEA raised a concern that the mitigation method was inadequate because the “through-and-out” revenues from out-of-state capacity and energy sales would not be enough to cover revenues lost from the elimination of pancaked rates. In their draft position, the Applicants expressed a willingness to review suggested alternatives by an existing or prospective stakeholder. JEA has expressed an interest in pursuing such discussions with the Applicants to which the Applicants agreed. The Applicants and JEA will be discussing alternatives in the near future, and any progress made will be shared with all other stakeholders and staff.

Outstanding Questions

One stakeholder believes the Applicants’ proposal to provide compensation for lost wheeling revenue should be expanded to recognize that some entities are not currently receiving revenue for the wheeling services they provide in the form of unauthorized parallel path flows. This expansion of the mitigation of short-term revenues concept was not presented for consideration by the FPSC when its initial decision on this issue was made. The FPSC should determine whether this suggested expansion of the Applicants’ proposal is appropriate at this time.

Issue 7 – Review of current regulatory/legislative environment

All of the workshop participants will continue to monitor the regulatory and legislative environment.

Issue 8 – Continued review of RTO costs and benefits

Potential Areas of Agreement

The GridFlorida Applicants have proposed the retention of the consulting firm, ICF, to conduct a cost/benefit study. The stakeholders generally agree with this proposal, however, the stakeholders also generally expressed a desire to have an active role in planning the study, developing input assumptions, and analyzing modeling results and study conclusions. Several of the parties want the opportunity to request additional studies, beyond the proposed base and change cases, reflecting changes in assumptions, parameters, inputs, etc. It was indicated by the Applicants that the cost of the study will be included in the Applicants’ start-up costs for inclusion in the transmission tariff rate. The Applicants stated that a project description will be provided to parties for review and comment.

Further information regarding this issue will be discussed at the Market Design Issues Workshop in May, 2004.