

In re: Review of GridFlorida
Regional Transmission
Organization (RTO) Proposal.

DOCKET NO. 020233-EI
ORDER NO. PSC-02-1475-PCO-EI
ISSUED: October 28, 2002

The following Commissioners participated in the disposition of this matter:

LILA A. JABER, Chairman
J. TERRY DEASON
BRAULIO L. BAEZ
MICHAEL A. PALECKI
RUDOLPH "RUDY" BRADLEY

ORDER ABATING HEARING

BY THE COMMISSION:

BACKGROUND

In December 1999, the Federal Energy Regulatory Commission (FERC) issued Order No. 2000, which required all public utilities that own, operate, or control interstate transmission facilities to file by October 16, 2000, a proposal to participate in a regional transmission organization (RTO). In response to Order No. 2000, Florida Power Corporation (FPC), Florida Power & Light Company (FPL), and Tampa Electric Company (TECO) (collectively, the Applicants or GridFlorida Companies) developed a Peninsular Florida RTO proposal referred to as GridFlorida (the Transco filing).

On October 3-5, 2001, we held an evidentiary hearing in Docket Nos. 000824-EI, 001148-EI, and 010577-EI to determine the prudence of the formation of and the participation in the proposed GridFlorida RTO by the Applicants. As a result of the hearing, we issued Order No. PSC-01-2489-FOF-EI on December 20, 2001 (Order No. PSC-01-2489-FOF-EI or December 20 Order). Based on the evidence in the record, we found that a Peninsular Florida RTO was more appropriate for Florida's utilities and ratepayers than a larger, regional RTO at this time. Further, as a policy matter, we noted our support for the formation of an RTO to facilitate the

DOCUMENT NO. 020233-EI

11792 OCT 28 8

FPSC-ADMINISTRATIVE CLERK

development of a competitive wholesale energy market in Florida. We found, in part, that the Applicants were prudent in proactively forming GridFlorida. The Applicants were ordered to file a modified RTO proposal that conformed the GridFlorida proposal to the findings of the Order and used an independent system operator (ISO) structure in which each utility maintains ownership of its transmission facilities. The modified proposal was due 90 days following the issuance of the Order. A new generic docket, Docket No. 020233-EI, was opened to address the modified proposal.

The Applicants filed a modified proposal (compliance filing) on March 20, 2002. We held a workshop to discuss the compliance filing on May 29, 2002. Parties to this docket were provided the opportunity to file Pre-Workshop and Post-Workshop Comments and to participate in meetings and conference calls regarding the compliance filing. As a result of comments at the workshop, the GridFlorida Companies modified certain aspects of the compliance filing. These changes (modified compliance filing) were filed on June 21, 2002. The following persons intervened in this docket and provided comments: Florida Municipal Group (FMG) which is comprised of Lakeland Electric, Kissimmee Utility Authority, Gainesville Regional Utilities, and the City of Tallahassee, Florida; Florida Municipal Power Agency (FMPA); JEA; Mirant Americas Development, Inc., Duke Energy North America, LLC, Calpine Corporation, and Reliant Energy Power Generation, Inc. (Joint Commenters); Reedy Creek Improvement District (Reedy Creek); Seminole Electric Cooperative, Inc. (Seminole); Seminole Member Cooperatives (Seminole Members); Trans-Elect, Inc. (Trans-Elect); Florida Industrial Power Users Group (FIPUG); and Office of Public Counsel (OPC).

On September 3, 2002, we issued Order No. PSC-02-1199-PAA-EI (Order No. PSC-02-1199-PAA-EI or September 3 Order), which determined by final agency action GridFlorida's compliance with Order No. PSC-01-2489-FOF-EI, and directed the GridFlorida Companies to file petitions and testimony addressing market design no later than 30 days from our vote at the August 20, 2002, Agenda Conference. Order No. PSC-02-1199-PAA-EI also issued as proposed agency action specific changes to the GridFlorida compliance filing.

On September 13, 2002, a motion for reconsideration of Order No. PSC-02-1199-PAA-EI was filed by the Seminole Electric Cooperative and Calpine Corporation (Seminole and Calpine). On September 18, 2002, respective motions for reconsideration were filed by FPC, FMG, Reedy Creek, and FMPA. Also on September 18, OPC filed a motion for reconsideration and stay of proceedings, simultaneously with a request for oral argument with respect to its request for reconsideration.

On September 20, 2002, the Applicants filed a response to Seminole and Calpine's motion. On September 23, 2002, OPC filed respective responses to FMPA and FPC's motions. On September 25, 2002, TECO and FPL filed a joint response to FPC and FMPA's respective motions; and the Applicants filed a response to OPC's motion for stay and reconsideration, and a response to the motions for reconsideration filed by FMG and Reedy Creek.

On October 3, 2002, OPC filed a notice of administrative appeal of Order No. PSC-02-1199-PAA-EI to the Florida Supreme Court.

We are vested with jurisdiction over the subject matter addressed herein through the provisions of Chapter 366, Florida Statutes, including, but not limited to, Sections 366.04, 366.05, 366.06, Florida Statutes.

ABATING HEARING

OPC's notice of appeal of Order No. PSC-02-1199-PAA-EI was filed on October 3, 2002. Rule 9.310(b)(2), Florida Rules of Appellate Procedure, provides that the timely filing of a notice of appeal shall automatically operate as a stay pending review when the state, any public officer in an official capacity, board, commission or other body seeks review. Pursuant to Orders Nos. PSC-02-1177-PCO-EI and PSC-02-1251-PCO-EI, respectively filed on August 29, 2002 and September 11, 2002, the market design and protested PAA issues in this docket are currently scheduled for an expedited administrative hearing on October 31, 2002. The Orders also set forth a procedural schedule with a number of dates controlling the filing of testimony, exhibits, prehearing statements, etc.

ORDER NO. PSC-02-1475-PCO-EI

DOCKET NO. 020233-EI

PAGE 4

The outcome of the appeal may profoundly impact the design and import of the issues which can and should be considered at hearing. If the present hearing schedule was to be followed, it would be at the risk of prematurely and inefficiently utilizing the resources of the parties and this Commission. In other words, should we proceed to hearing at this time, it is possible that the outcome of that hearing would be rendered moot or need to be revisited depending upon the outcome of the appeal. In light of these concerns, we find it reasonable to abate the instant proceeding, pending disposition of OPC's appeal of Order No. PSC-02-1199-PAA-EI.

Consistent with our decision herein, no ruling will be made herein with respect to the motions for reconsideration filed by the parties to this docket at this time. This docket shall remain open pending disposition of the appeal and any other further proceedings that may be deemed necessary.

Based on the foregoing, it is

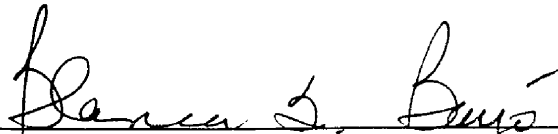
ORDERED by the Florida Public Service Commission that the instant proceedings are abated in their entirety, pending disposition of OPC's appeal of Order No. PSC-02-1199-PAA-EI. It is further

ORDERED that no ruling will be made herein with respect to the motions for reconsideration filed by the parties to this docket at this time. It is further

ORDERED that this docket shall remain open pending disposition of the appeal and any other further proceedings that may be deemed necessary.

ORDER NO. PSC-02-1475-PCO-EI
DOCKET NO. 020233-EI
PAGE 5

By ORDER of the Florida Public Service Commission this 28th
day of October, 2002.



BLANCA S. BAYÓ, Director
Division of the Commission Clerk
and Administrative Services

(S E A L)

JSB

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Mediation may be available on a case-by-case basis. If mediation is conducted, it does not affect a substantially interested person's right to a hearing.

Any party adversely affected by this order, which is preliminary, procedural or intermediate in nature, may request: (1) reconsideration within 10 days pursuant to Rule 25-22.0376, Florida Administrative Code, if issued by a Prehearing Officer; (2)

ORDER NO. PSC-02-1475-PCO-EI

DOCKET NO. 020233-EI

PAGE 6

reconsideration within 15 days pursuant to Rule 25-22.060, Florida Administrative Code, if issued by the Commission; or (3) judicial review by the Florida Supreme Court, in the case of an electric, gas or telephone utility, or the First District Court of Appeal, in the case of a water or wastewater utility. A motion for reconsideration shall be filed with the Director, Division of the Commission Clerk and Administrative Services, in the form prescribed by Rule 25-22.060, Florida Administrative Code. Judicial review of a preliminary, procedural or intermediate ruling or order is available if review of the final action will not provide an adequate remedy. Such review may be requested from the appropriate court, as described above, pursuant to Rule 9.100, Florida Rules of Appellate Procedure.