



Public Service Commission

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-M-E-M-O-R-A-N-D-U-M-

DATE: MAY 24, 2001

TO: DIRECTOR, DIVISION OF RECORDS AND REPORTING (BAYÓ)

FROM: DIVISION OF POLICY ANALYSIS & INTERGOVERNMENTAL LIAISON
(SHAFER, MILLER, TRAPP) *CS RIE FOR KID*
DIVISION OF LEGAL SERVICES (ELIAS, KEATING, WALKER) *WIK*
DIVISION OF ECONOMIC REGULATION (MAILHOT, DEVLIN) *DM RHT*
DIVISION OF SAFETY AND ELECTRIC RELIABILITY (FLOYD,
BALLINGER, JENKINS) *JDJ*

RE: JOINT MOTION OF FLORIDA POWER & LIGHT COMPANY, TAMPA
ELECTRIC COMPANY, AND FLORIDA POWER CORPORATION TO
ESTABLISH A DOCKET AS TO THE PRUDENCE OF THE FORMATION OF
AND PARTICIPATION IN GRIDFLORIDA, INC.

DOCKET NO. 001148-EI - FLORIDA POWER & LIGHT COMPANY
DOCKET NO. 010577-EI - TAMPA ELECTRIC COMPANY
DOCKET NO. 000824-EI - FLORIDA POWER CORPORATION

AGENDA: 05/29/01 - REGULAR AGENDA - INTERESTED PERSONS MAY
PARTICIPATE

CRITICAL DATES: NONE

SPECIAL INSTRUCTIONS: NONE

FILE NAME AND LOCATION: S:\PSC\PAI\WP\001148.RCM

CASE BACKGROUND

On May 3, 2001, Staff filed its recommendations for the May 15, 2001, Agenda recommending that Florida Power Corporation (FPC) and Florida Power & Light (FP&L) be required to file Minimum Filing Requirements (MFRs) for a 2002 test year. As part of the justification for requiring MFRs, Staff pointed to the proposed formation and participation in the GridFlorida RTO as one of the most significant changes that has occurred since the companies' last rate cases and that will have immediate impacts on Florida

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consumers. On May 11, 2001, FPC, FP&L, and Tampa Electric Company (TECO) filed a joint motion requesting the Commission to establish a separate generic docket to determine, on an expedited basis, the prudence of the formation of and their participation in the GridFlorida RTO. At the May 15, 2001 Agenda, the Commission voted to require FPC and FP&L to file MFRs. Action on the joint motion to establish a generic docket to address the prudence of GridFlorida was deferred to the May 29, 2001 Agenda.

DISCUSSION OF ISSUES

ISSUE 1: Should the Commission grant the Joint Motion to establish a separate generic docket to determine, on an expedited basis, the prudence of the formation of and the participation by FPC, FP&L, and TECO in the GridFlorida RTO?

RECOMMENDATION: No, the motion should be denied. While the form of the RTO was determined through a collaborative process, the impacts on each utility will depend on its unique transmission use and cost characteristics. Prudence of each utility's participation in the RTO will require utility specific data, essentially identical to what has been ordered to be filed in Dockets 000824-EI and 001148-EI. A separate docket would neither expedite the process nor provide a meaningful forum for assessing individual company impact on retail ratepayers.

If, however, the Commission decides to conduct a generic proceeding, the Commission should require each utility (FPC, FP&L, and TECO) to file a separate petition, along with direct testimony and exhibits, specifically addressing the cost-effectiveness to its ratepayers of its participation in GridFlorida. Each filing should also include specific requests for affirmative relief. All work papers, supporting documentation, assumptions, and documents reviewed in preparation for the filing should be made available to all parties at the time of the filing. Discovery should be expedited. The Commission should commit to making a decision on the petitions within 90 days of the filing of complete testimony and exhibits. The results of the Commission's decision regarding each utility's participation in GridFlorida should be incorporated into the current rate review dockets initiated for FPC and FP&L and in any rate review docket opened in the future for TECO.

STAFF ANALYSIS: In their Joint Motion, FPC, FP&L, and TECO have asked the Commission to establish a separate generic docket to determine, on an expedited basis, the prudence of the formation of and their participation in GridFlorida. The Joint Motion provides

scant detail or explanation of why the requested expedited proceeding is the most appropriate means of assessing the prudence of each investor-owned utility's participation in GridFlorida. In paragraph 5, the movants state: "These issues are generic in nature and equally applicable to each of the Joint Movants." The Joint Movants suggest that an expedited proceeding would "minimize the period for which there is uncertainty as to the future development of GridFlorida, Inc." As detailed below, the issues associated with the prudence of each utility's decision to participate in GridFlorida are not "equally applicable" to each utility.

Staff's first impression is that this motion is a case of "too little, too late." Early in 2000, when discussion about forming a peninsular Florida RTO first began, Staff suggested that a generic docket be opened to address three basic regulatory concerns:

- (1) To facilitate the development of an RTO that would be in the best interests of the state as a whole;
- (2) To ensure that the participation of the regulated investor-owned utilities in such an RTO was in the best interests of their respective retail customers; and
- (3) To reconcile the retail and wholesale rate base and base rates charged by the regulated investor-owned utilities to recover prudently incurred RTO costs commensurate with benefits received.

Staff continues to believe that a generic docket during the early formulative phase of the RTO would have been helpful in guiding RTO development along the lines of public interest and prudent ratemaking principles. However, this approach was set aside in favor of allowing the parties to engage in the less formal approach they preferred, a collaborative process. Staff monitored the collaborative process and, to the extent practicable, participated in those discussions which were open to public input. Throughout the collaborative process, Staff repeatedly raised the three basic tenets outlined above. Staff's input to the collaborative process was discussed at a number of Internal Affairs meetings. As such, the parties have been fully aware of the issues discussed and concerns raised by the Commission. However, the parties were under no obligation to consider or even respond to concerns raised by staff in the collaborative process. The decisions on the form, function, and degree of participation in a peninsular Florida RTO were solely that of the Joint Applicants.

Upon petition by the Joint Applicants, on March 28, 2001, the Federal Energy Regulatory Commission (FERC) issued its order provisionally granting regional transmission organizational (RTO) status to GridFlorida. Although a number of important implementational details remain to be resolved, the FERC's order signaled the end of the overall design phase of a peninsular Florida RTO. The form and function of a peninsular Florida RTO has been selected. GridFlorida is to be a for-profit, stand-alone, transmission company. We are now in the implementation phase of GridFlorida.

GridFlorida is scheduled to become operational by December 15, 2001, although the Joint Applicants have recently filed a press release indicating that the date may be suspended pending the ratemaking actions taken by this Commission. The many remaining issues concerning market design, RTO rates, and the work necessary to begin operation (staffing, computer programming, maintenance planning, etc.) cast further doubt as to whether the December 15, 2001, date is realistic. Under the current schedule, the next critical step in implementing GridFlorida is the filing of wholesale transmission rates with the FERC (currently scheduled for mid-October). Whether the utilities divest assets or simply submit their revenue requirements to the RTO for recovery, this process will require, at a minimum, clear identification of transmission costs. In addition, the Joint Applicants have made the commitment to support the startup costs of GridFlorida, initially in the form of loans by the Joint Participants followed by a public sale of stock. These startup costs will likely also be included in RTO costs. This raises several issues which are clearly company specific.

While FPC, FP&L, and TECO are, at present, the only announced participants in GridFlorida, their involvement will be distinctly different. FP&L and TECO plan to divest their transmission facilities to GridFlorida. FPC intends to retain ownership but turn over operational control of its transmission facilities to GridFlorida. FPC and FP&L have historically been transmission service providers to other peninsular Florida utilities. TECO has historically been a purchaser of intrastate and interstate transmission services. In addition to having differing cost structures based on current operations, each of the Joint Participants has its own reasons for participating in GridFlorida and each is likely to incur different levels of cost and receive different levels of benefits. Just as it is not feasible to have joint rate cases, a generic docket is neither the best nor most efficient mechanism to determine the prudence and impact of individual participation in the RTO.

When assessing the impact of the RTO on ratepayers, there are two basic issues which the Commission must address - prudence and cost recovery. In the context of a ratemaking proceeding, the issue of prudence has a very specific and limited meaning. Having chosen the form and function of GridFlorida through the collaborative process, each regulated utility must now demonstrate that its decision to participate in GridFlorida is in the best interests of its retail customers. In order to address this ratemaking aspect of prudence, the Commission must look at:

- (1) the specific costs to be born by the company's ratepayers;
- (2) the specific benefits that the company's ratepayers can expect to receive;
- (3) whether, on a company-by-company basis, the costs to be paid by the company's ratepayers are outweighed by the benefits they will receive, and
- (4) whether the timing of any recovery of costs through customer rates is commensurate with the timing of the benefits received.

Once the issue of costs vs. benefits has been addressed, the second issue is: Who should pay -- ratepayers or stockholders? If it is determined that the ratepayers should pay all or a portion of the costs associated with GridFlorida, the Commission must determine whether cost recovery should take place in base rates or through recovery clauses. Finally, rate structure issues must be addressed to determine what percentage of total costs should be paid by each customer class. In addition to these general ratemaking issues, there are other issues linked to the specific nature of each company's participation in GridFlorida, such as the decision to transfer the ownership of transmission facilities to GridFlorida. Further, trying to assess the reasonableness of the costs associated with the participation in the RTO, without a fully informed understanding of each utility's complete financial picture, will not afford the Commission the best information upon which to base its decisions. The filing and review of MFRs, with the further assurances that an audit incident to a rate proceeding will offer, provides better assurances that the decisions will be in the long term public interest. The voluntary decision to disaggregate the retail transmission function is a fundamental change in the way electricity is provided to Floridians. A determination that such actions are prudent should not be made in haste, and should be based on the best information available.

Staff believes that these ratemaking issues are best addressed in company specific ratemaking proceedings, not in a generic docket.

Separate but interwoven with the RTO prudence issues, are overearnings issues for both FPC and FP&L. At the May 15, 2001, Agenda the Commission voted to require FPC and FP&L to file MFRs based on a proposed 2002 test year to address potential overearnings. A 2002 test year overlaps with the first year of planned operation of GridFlorida. Exactly the same MFR data and subsequent discovery are required to address both overearnings and the impact of GridFlorida on the retail rates of FPC and FP&L. In fact, even though TECO is not under a stipulation to address overearnings, a separate docket has also been opened to collect MFR type data for it as well to determine the likely affect of its participation in GridFlorida on their retail rates.

For all these reasons, Staff believes the Joint Motion should be denied. If, however, the Commission decides to conduct a generic proceeding, the Commission should require each utility (FPC, FP&L, and TECO) to file a separate petition, along with direct testimony and exhibits, specifically addressing the cost-effectiveness to its ratepayers of its participation in GridFlorida. Each filing should also include specific requests for affirmative relief. All work papers, supporting documentation, assumptions, and documents reviewed in preparation for the filing should be made available to all parties at the time of the filing. Discovery responses should be expedited. The Commission should commit to make a decision on each petition within a sufficient timeframe to allow any decisions to be incorporated into the final decision in the current rate review dockets initiated for FPC and FP&L and in any rate review docket opened in the future for TECO.

DOCKET NOS. 001148-EI, 010577-EI, 000824-EI
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ISSUE 2: Should these dockets be closed?

RECOMMENDATION: No.

STAFF ANALYSIS: These dockets should remain open for further proceedings, whether or not the Joint Motion is granted.