

MCWHIRTER REEVES
ATTORNEYS AT LAW

TAMPA OFFICE
400 NORTH TAMPA STREET, SUITE 2450
TAMPA, FLORIDA 33602-5126
P O BOX 3350 TAMPA, FL 33601-3350
(813) 224-0866
(813) 221-1854 Fax

PLEASE REPLY TO
JOHN W. MCWHIRTER, JR.
TAMPA

TALLAHASSEE OFFICE
117 SOUTH GADSDEN
TALLAHASSEE, FLORIDA 32301
(850) 222-2525
(850) 222-5606 Fax

March 11, 2004

Blanca S. Bayo, Director
Commission Clerk and Administrative Services
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee FL 32399-0850

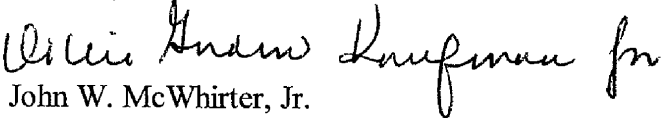
Re: Docket No. 020233-EI

Dear Ms. Bayo:

Please file and distribute the attached original and fifteen copies of the Florida Industrial Power Users Group's (FIPUG) positions on the issues set for discussion at the Commission's forthcoming March 17th workshop in the above docket.

Please acknowledge receipt of these documents by stamping the extra copy of this letter and attachments and returning a copy to me. Thank you for your assistance.

Sincerely Yours,


John W. McWhirter, Jr.

Encls.

Cc. All Parties of Record

MCWHIRTER, REEVES, MCGLOTHLIN, DAVIDSON, KAUFMAN & ARNOLD, P.A. DOCUMENT NUMBER-DATE

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FPSC-COMMISSION CLERK

Docket No. 020233-EI
March 17-18, 2004 Workshop

FIPUG GENERAL STATEMENT OF POSITION

The Energy Policy Act of 1992 encouraged wholesale competition; FERC Orders 888 and 889 opened access to the electric transmission system; and Orders 2000 and 2000A required the creation of independent Regional Transmission Organizations (RTOs) to foster competition with an eye toward reducing costs for the ultimate consumer.

The FERC orders set out the MINIMUM CHARACTERISTICS and the MINIMUM FUNCTIONS of an RTO. The most important characteristic for the protection of Florida consumers are the requirements for Independent Operational Authority. The most important minimum functions of an RTO for the Florida consumer are: Tariff Administration and Design; Open Access and Current Price Information; Market Monitoring; and Planning and Expansion.

The Grid Florida Applicants are three investor-owned utilities that have used cash flow collected from Florida consumers to actively promote competition in other states and foreign countries with dismal results. On the other hand, they have historically acted individually and in concert in Florida to frustrate meaningful wholesale and retail competition at every turn before the Commission, before local government, in the state legislature, in the courts, in their non-compete agreements between themselves and with other utilities, and in their internal practices and policies.

The FIPUG position on the issues for discussion is based upon this understanding of the current circumstances as they affect Florida consumers.

1. Regional State Committees

FIPUG acknowledges the need to work within the constraints of the existing single state limited RTO for the short run, but consumers would benefit from access to lower cost electricity emanating from West Florida and other states. Efforts should be undertaken to improve the transmission links northward and westward to obtain lower cost electric power. In the meantime, it is imperative that the Florida Public Service Commission (FPSC) retain close oversight of the Grid Florida RTO to ensure its independence.

2. Pricing and Jurisdictional Issues

The Applicants have devised an artful methodology to retain the principal transmission rate making authority with the Florida Commission. Florida consumers should be better served by having the FPSC retain initial oversight over transmission rates because of its responsibility to protect the interest of end use customers. FIPUG agrees with the basic methodology proffered by the Applicants. As the process develops, FIPUG would expect that greater notice and participation in the process will be afforded to consumers.

The vast majority of transmission service is within utility service areas and should be under

the jurisdiction of the FPSC (see # 4 below). Other than the power purchases by Municipals and REAs, only a modest component of the system is used for transporting electricity between utilities.

JEA's investment in bringing power to Florida should be fairly treated.

FEMA and Seminole should be able to transmit the power they purchase and produce at reasonable rates and without discrimination.

A bulletin board should be established to give instant access to current price information and steps should be taken to return to the original Florida broker system, in which utilities shared the lowest cost electricity, rather than the current system in which the price in a constricted market becomes the target price.

The cost of upgrades to the transmission system for the benefit of retail customers should continue to be collected through base rates to protect against double collection. The relatively modest cost of improving the system for inter-utility purchases should be collected through the Grid Florida transmission tariff.

FIPUG was appalled at the \$1 billion estimated cost to set up the Grid Florida Operation and will demand strict proof of its expenditures.

The market design known as Locational Market Pricing, LMP, is of great concern to FIPUG. FIPUG participants who are interruptible customers of Tampa Electric have first hand knowledge of the impact of the law of supply and demand in a market short on supply. These customers faced devastating price increases when TECo was forced to buy power in Florida's non-competitive wholesale market over the last few years. As a consequence of this experience, these consumers strongly advocate resistance to LMP until a viable wholesale market develops with independent power producers that have open access to the transmission system, and there is an open pricing system in place similar to the PMJ model.

3. Participation Funding

FIPUG endorses participant funding in proportion to benefits derived from the improvements. Funding for transmission within service areas should continue to be under the supervision of the FPSC and should have no effect on wholesale transmission rates proffered by Grid Florida. Funding for transmission improvements to accommodate wholesale transactions should be recovered through wholesale rates and the costs must be fairly allocated.

4. Cost Recovery

Retail related transmission improvements can normally be amortized without affecting base rates. This is because the cost of original construction is recovered through depreciations charges to provide funds for replacement, and transmission additions are sufficiently funded through the growth in sales.

To the extent that transmission improvements for the benefit of wholesale consumers are required, these incremental costs should be recovered as proposed by the Applicants.

As to transmission facilities that are jointly used, the costs should be allocated in the same fashion that they were allocated in the wholesale/retail separation study used in the utility's last general base rate case. For example, if the separation study discloses that a utility's rate base is allocated 97% to retail service and 3% to wholesale sales, the cost of jointly used transmission facilities should be recovered in the same manner -- 97% through base rates, 3% through the approved Grid Florida transmission surcharge. There would be no increase in base rates for new retail transmission improvements except through a general rate case.

To do otherwise will let the tail wag the dog.

5. Cut off dates for existing transmission agreements and facilities

FIPUG takes no position on this issue.

6. Mitigation of cost shifts due to elimination of short term wheeling revenues

FIPUG takes no position on this issue except that non-Grid Florida utilities should receive fair treatment.

7. Review of current regulatory/legislative environment

The Federal Energy Act revisions appear to be stagnant. FERC is moving forward with its regulatory imperatives with caution. In Florida, the introduction of HB 1631 / SB 2798 will remove substantial regulatory authority from the FPSC and provide rate freezes for base rates, rate freezes for adjustment clauses, and commingling of adjustment clause revenues to the detriment of consumers. The legislative reaction to this far reaching legislation will be indicative of the Florida legislative environment, if the legislators understand the full import of the proposal.

8. Continued review of RTO costs and benefits

At the present time, the benefits of an RTO are tenuous due to the fact that there is little or no competitive wholesale market in Florida. The FPSC should actively pursue interties with west Florida and Georgia, reinvigorate the development of merchant plants, and keep its eye on its Mission Statement:

Customers are served best by markets that facilitate the efficient provision of safe and reliable utility services at fair prices. The mission of the Florida Public Service Commission is to promote the development of competitive markets BB as directed by state and federal law BB by removing regulatory barriers to competition, and by emphasizing incentive-based approaches, where feasible, to regulate areas that remain subject to rate of return regulation. Once markets become sufficiently competitive, the Florida Public Service Commission will eliminate regulatory involvement to the extent permitted by law.