

State of Florida



Public Service Commission

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TALLAHASSEE, FLORIDA 32399-0850

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

DATE: August 16, 2007

TO: Office of Commission Clerk (Cole)

FROM: Office of the General Counsel (Gervasi, Brown)
Division of Economic Regulation (Lewis)

RE: Docket No. 050531-EU – Petition to initiate rulemaking to adopt Rule 25-6.0186, F.A.C., Bulk Power System Reliability Standards, by Florida Reliability Coordinating Council, Inc.

AGENDA: 08/28/07 – Regular Agenda – Interested Persons May Participate

COMMISSIONERS ASSIGNED: All Commissioners

PREHEARING OFFICER: Edgar

RULE STATUS: Petition for Rulemaking – Withdrawal

SPECIAL INSTRUCTIONS: None

FILE NAME AND LOCATION: S:\PSC\GCL\WP\050531.RCM.DOC

Case Background

On August 4, 2005, the Florida Reliability Coordinating Council, Inc. (FRCC) filed a Petition to initiate rulemaking to adopt Rule 25-6.0186, Florida Administrative Code (F.A.C.), Bulk Power System Reliability Standards. Staff filed a recommendation to grant FRCC's petition and hold a rule development workshop to determine whether to go forward with the proposed rule in the form requested by FRCC. The Commission approved staff's recommendation on August 30, 2005. Notice of a proposed rule development workshop was published in the Florida Administrative Weekly (F.A.W.) on September 16, 2005.

On September 19, 2005, the FRCC notified staff that it would be proposing changes to the proposed rule to bring it into compliance with the Electricity Modernization Act of 2005,

which became law on August 8, 2005. This Act required the Federal Energy Regulatory Commission (FERC) to establish mandatory and enforceable reliability standards for all users of the bulk power system.

A Commission rule development workshop was held on October 6, 2005. Representatives of the Office of Public Counsel and Florida Municipal Power Association attended the workshop, in addition to FRCC. There was discussion of the recently passed Electricity Modernization Act of 2005 (Title XII of the Energy Policy Act of 2005) and how it might impact the rule proposed by the FRCC. At the time the workshop was held, FERC's reliability standards rule had not yet been promulgated. The FERC adopted a final reliability standards rule on February 2, 2006. FERC's final reliability standard rule clarified that regional entities may propose regional standards or variances to the national reliability organization charged with standards development, the Electric Reliability Organization (ERO). The ERO may then propose that the FERC adopt those regional standards.

On July 2, 2007, the FRCC filed a Notice of Withdrawal of Petition to Initiate Rulemaking. This recommendation addresses that Petition.

Issue 1: Should FRCC's Notice of Withdrawal of Petition to Initiate Rulemaking be acknowledged?

Recommendation: Yes, the Notice of Withdrawal of Petition to Initiate Rulemaking should be acknowledged. (Gervasi, Lewis)

Staff Analysis: The FRCC originally filed its petition for rulemaking to ensure that there would be a process for establishing mandatory reliability standards in Florida. However, through the Energy Policy Act of 2005, the FERC has been granted the authority to set and enforce North American mandatory reliability standards. The FERC's final rule issued February 2, 2006 established a process for developing reliability standards that permits regional variances to reliability standards, provided such a regional variance is not less stringent than the national standard. This standards development process does not affect the Florida Public Service Commission's authority to ensure electric system reliability as established in Chapter 366, Florida Statutes. Through the Regional Entity Delegation Agreement the FERC approved on April 19, 2007, the FRCC now has a process to set and enforce mandatory regional (Peninsular Florida) standards. Therefore, rulemaking to establish such a process is no longer needed. For this reason, staff recommends that the Commission acknowledge FRCC's Notice of Withdrawal of Petition to Initiate Rulemaking.

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Issue 2: Should this docket be closed?

Recommendation: Yes, because no further action is necessary, this docket should be closed.
(Gervasi)

Staff Analysis: Because no further action is necessary, this docket should be closed.