

**BEFORE THE
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION**

**COMMENTS OF THE
GEORGIA PUBLIC SERVICE COMMISSION**

**Regarding
Docket No. RM01 -12-000
NOTICE OF PROPOSED RULEMAKING
Remedying Undue Discrimination through Open Access
Transmission Service and Standard Electricity Market Design
(Issued July 31, 2002)**

Introduction

The Georgia Public Service Commission ("GPSC" or "Commission") appreciates the opportunity to provide comment on the very important issues outlined in this dock et. The implementation of the proposed concepts would affect Georgia's ratepayers directly and Georgia's consumers generally. Although our comments address particular concepts in this document, we reserve the right to provide further comment on the remaini ng areas as outlined by FERC.

The extension granted by FERC for filing initial comments, the inclusion of a provision for filing reply comments, the extension of time provided until January 10, 2002 for filing comments on certain key issues –Market Design for the Western Interconnection, Transmission Planning and Pricing, including Participant Funding, RSACs and State Participation, Resource Adequacy and CRRs and Transition Issues -and the provision for reply comments on such issues is appropriate. The additional technical conferences on Market Monitoring, Funding of Transmission Expansion, Resource Adequacy and Congestion Revenue Rights are a very necessary component of this proposal as they have demonstrated that these are very complex issues that require much dialogue between the parties involved in order to fully understand the issues and their ramifications. We also appreciate the Commission's solicitation of state commissions' input and continue to believe that a collaborative process will work best for all stakeholders.

Executive Summary

1. The GPSC is concerned about the necessity for such an extensive change in the current transmission system operation and control as proposed in this rulemaking. FERC has not demonstrated that such drastic changes are needed at this time in Georgia or the Southeast. The case for "undue discrimination" by the Georgia utilities has not been made, although this is one of the main reasons given for the standard market design (SMD) as outlined in the NOPR. Neither has FERC shown that the proposed SMD represents a cost-effective, less intrusive, or more appropriate remedy for any such discrimination, if it were found to exist.
2. The GPSC is uncertain that the potential benefits that may arise from the formation of the proposed Southeastern Transmission Reliability Organization (STRO) and the implementation of SMD, as proposed in this NOPR, would outweigh the costs necessary to support, run and monitor such an operation. The changes proposed by FERC could cause retail electricity prices to rise with the creation of costs for new entities, an RTO, with its attendant functions and operations such as an Independent System Administrator ("ISA"), an Independent Market Monitor ("IMM") and various other supporting functions. Rates would also rise due to the additional costs incurred by the state regulatory commission staffs, utilities and market participants associated with understanding, implementing and regulating under voluminous new and complex rules. This comes at a time when state budgets are at all time lows and many state commissions are experiencing multiple budget cuts to maintain their operations.
3. The proposed rulemaking on SMD imposes FERC's jurisdiction on the transmission portion of bundled retail electric service that is now regulated by the States. As FERC is aware, not all states have deregulated their electricity industry. In fact, the majority have not. Georgia is not contemplating doing so if there are no benefits to be gained from it.

4. The GPSC is encouraged by the fact that FERC is willing to accept regional differences in the implementation of this proposal. While there are certainly areas of the country that have experienced major problems associated with the supply and transmission of electricity, this is not the case in the Southeastern U.S. In fact, herein Georgia, resource planning continues to provide for sufficient supply transmitted to customers at a reasonable price to meet the growing demand in the state. As such, this proposal may be more appropriate for those markets that have restructured and have experienced or are now experiencing problems in the transmission of electricity. This would indicate a respect for regional differences.

5. As FERC is aware, the GPSC has joined with other Southeastern state regulatory commissions in the development of a SEARUC Cost/Benefit Analysis to evaluate the impact of this proposal on our region of the country and our states, individually. We have not yet concluded that a single or multiple RTO structures should be implemented in this region or that our jurisdictional utilities should participate in such RTOs or should implement FERC's proposed SMD. During the meetings between FERC staff and Southeast state commissioners, a number of critical issues, including the need to consider the results of the Cost/Benefit Analysis, have been brought to FERC's attention. Such concerns must be adequately addressed prior to finalizing or implementing FERC's proposals.

6. The Georgia Public Service Commission continues to urge FERC to proceed slowly, cautiously and to consider regional differences in this endeavor to fix nationally what may be a major problem in certain markets and a minor problem in the Southeast and may not require as extensive a change as proposed in this proposed rulemaking.

Comments***Independent Transmission Providers (para. 131)***

Here FERCSpeaksaboutthepotentialforundulydiscriminatorybehavior.TheGPSCis concernedthatFERChasnotdemonstratedthatdiscriminationinaccessto transmissionfacilitiesexistsinGeorgiaor,forthatmatter theentireSoutheast,orthat FERC'sproposedSMDrepresentsacost -effective,leastintrusive,moreappropriate solutionforanysuchdiscrimination,ifitwerefoundtoexist.Theregulatedutilitiesin Georgia,GeorgiaPowerCompanyandSavannahElectricandPowerCompany,remain verticallyintegratedwhichwebelievehasservedcustomerswellintheabsenceofa deregulatedretalelectricitymarket.Breakingupthisstructurebytheformationofan RTOtohandlethetransmissionservicescouldresult inadditionalcoststoratepayers. WewouldliketoseetheevidenceandprooffirstfromFERCthattherehasbeen“undue discrimination”intransmissionaccessinGeorgiaandtheSoutheastbeforeconcluding whetherFERC'sproposedSMDsolutionisappropriate.Assuch,wearenotsurethat the“remedyisadequate”.Itmaywellprovetoaddmanycostsunnecessarilywhena muchsimpler,lessdisruptiveandlessexpensivesolutionwouldhaveworked. RegardingwhetheranRTOorindependententityshouldperformthefunctionsrequired bystandardmarketdesign,itishelpfultonotethatmostutilitiesintheSoutheasthave filedproposalstojoinanRTObecausetheyweremandatedbyFERCtodoso.

Load Shedding and Curtailments (para. 159)

TheGPSCbelievest hatnativeloadcustomersshouldretainpriorityinschedulingofthe useofavailablecapacityduringtransmissionsystemconstraints.Sincenativeload customersalreadyfullypayfortransmissionservices,FERCshouldnottakeanyaction thatwouldresultinadditionalfeesorothercostburdensbeingimposedontheretail

jurisdictional customers of the utilities. If CRRs are implemented, presumably the CRR holders would have scheduling priority.

In addition, it is very important to exercise control over the planning and operation of generation, transmission and distribution resources in order to properly allocate capacity and to maintain reliability standards.

Whether there would be any net benefits from having a single transmission service for customers in the State of Georgia, or the Southeast, is something that remains uncertain at best.

Rates for Bundled Retail Customers (para. 178)

The GPSC questions whether FERC's attempt to assert jurisdiction over transmission service for bundled retail service has exceeded its authorization. This view is shared by a number of other states in the Southeast and northwest. Appropriately designed charges for transmission to bundled retail customers will be necessary to protect such customers from cost shifts and market manipulations that may occur under FERC's proposals. Should this proposal be adopted, the GPSC favors a transition period, and recommends that the transition period be optional for each region. Accordingly, areas desiring to implement FERC's new rules can proceed expeditiously to do so without needing a transition period, yet allowing areas such as the Southeast which have made investments that have provided relatively low cost and reliable electricity service at can transition gradually to a new system that should provide similar if not greater benefits to the retail jurisdictional ratepayers.

Inter-Regional Transfers (para. 185 -186)

The electric utilities under the GPSC's regulation currently participate in an Integrated Transmission System (ITS).¹ The GPSC regulated electric utilities have also proposed to participate in the Southeastern RTO, which would become one of the largest RTOs in the country. FERC accurately observes (para 184) that state regulators will not generally favor having their electric customers pay for facilities that may primarily benefit other states. FERC observes further that under the commonly used license plate rated design for transmission provided by an RTO, load within a particular RTO zone would pay that transmission owner's full embedded costs, including the portion that is currently contributed by through-and-out customers. The GPSC is uncertain of the extent of wheel-throughs under the current ITS, or under a Southeastern RTO. In general, the GPSC agrees with FERC's observation that eliminating the transmission charge for through-and-out service may result in inappropriate cost-shifting. The customers using through-and-out services should continue to pay for their use of the transmission system.

However, the GPSC is not convinced that either of the two approaches described in the FERC SMD represents an improvement or offers any cost savings advantage to Georgia retail customers over the current system where the regulated Georgia electric utilities participate in an integrated transmission system. The GPSC believes that additional information on the potential cost impacts under each approach is needed. We are studying the SEARUC sponsored cost-benefit study, which was just released, as it may

¹The existence of the Integrated Transmission System (ITS) makes Georgia unique. The ITS represents a \$3.4 billion investment that is used primarily to serve Georgia load. Interconnected with neighboring utilities through transmission tie lines, these ties allow utilities to transfer power from one system to another. The ties also allow Georgia utilities to purchase power from neighboring utilities when it is less expensive than operating their own units. It also allows the utilities to sell and transmit any excess power they may have available. Currently, four utilities jointly own the majority of Georgia's transmission system. Each of these utilities has ownership interests and equal access to the transmission facilities.

be helpful in understanding the cost impacts resulting from various aspects of FERC's proposals.

There should not be a uniform cost allocation of inter -regional costs among all zones within an Independent Transmission Provider's system because this would result in imposing costs throughout a region -wide charge on customers who do not import power.

There does appear to be merit in allowing the inter -regional transfers to be netted out between zones within neighboring Independent Transmission Providers in a manner that assigns transmission costs to all customers within the import zone and returns the revenue to the export zone, if an acceptable method of assigning costs to zones that is not subject to manipulation or gaming could be developed.

Pricing of New Transmission Capacity (para. 202)

The GPSC supports the principle that the costs of transmission expansion will be paid for by those who benefit from the expansion. We further support FERC's stated preference to allow recovery of the costs of expansion through participant funding, i.e., those who benefit from a particular project (such as a generator building to export power or load building to reduce congestion) pay for it. The GPSC also notes that participant funding is a key element to the voluntary formation of the Southeastern Transmission Reliability Organization by utilities in the Southeast.

As noted previously, the regulated Georgia electric utilities already participate in an integrated transmission system that spans state borders. The cost of transmission plant that has been constructed to benefit the integrated system is borne by the customers of the electric utilities who built the system. The GPSC believes that FERC should recognize that existing transmission constructed by regulated Georgia electric utilities has already resulted from a regional planning process.

FERC is seeking to impose a different regional planning process through RTOs and state advisory committees, etc. which may not result in any improvement or cost savings over the present integrated transmission system agreements and planning, which currently spans state borders.

GPSC also believes that additional costs for transmission facilities to accommodate the flow of electricity to load centers from merchant generating plants, which FERC recognizes have been built "largely in locations that make the most economic sense for the builder of the generation (i.e., where land is affordable and economic sources of fuel, water and labor are near (para 191)) should be paid for by the cost causers. Participant funding for such projects should be permitted within the SeTrans RTO region.

FERC indicates that it would allow participant funding for proposed transmission facilities that are included in a regional planning process which is conducted by an independent entity, whether an RTO, ISO, or other independent entity. GPSC is concerned that these requirements would delay or impede the implementation of participant funding until these conditions are met. Moreover, such delays may cause costs of transmission facilities constructed in the interim period in order to accommodate the locations of merchant generation to be borne by customers other than the cost causers. GPSC asks FERC to respect regional differences and recognize that participant funding is very important to the Southeast and to the SeTrans RTO.

Locational Marginal Pricing (para.211)

FERC should recognize that Georgia does not have retail competition and desires not to rush into retail competition or some of the pricing mechanisms that have been implemented in other areas of the country where retail access has been implemented. The Southeast to date has not yet implemented an RTO (although progress has been made to form the SeTrans RTO) or Locational Marginal Pricing (LMP). GPSC is aware

that some other regions, such as PJM, have implemented LMP and may therefore be in a better position to more rapidly implement new FERC requirements relating to LMP.

GPSC asks FERC to respect regional differences and provide for an adequate transition period prior to implementing or requiring LMP for Georgia and the Southeast.

GPSC believes that FERC should respect regional differences and not impose a “one size fits all” solution on regions such as the Southeast (or West).

Reciprocity Provision (para. 384)

GPSC believes there is merit to grandfathering the reciprocity tariffs that FERC previously found met the comparability standards of Order No. 888.

Market Power Mitigation and Monitoring in Markets Operated by the Independent Transmission Provider, Market Power Mitigation for Local Market Power (para. 411)

PJM is apparently one of the markets upon which FERC has based much of its proposed SMD. GPSC is not convinced that a PJM style approach is best for Georgia or the Southeast. FERC recognizes that New York permits greater flexibility and uses various screens to assess whether a seller is behaving non-competitively and should be mitigated. Setrans RTO interested parties are scheduled to explore market monitoring and receive input from PJM and NYISO market monitor on November 14.

FERC should review the proposals developed in each region.

GPSC is uncertain at this stage of ways in which a market established to comply with the FERC proposed SMD could be manipulated. If a number of such “small generators” colluded to withhold generation or to submit non-competitive bids during a period of peak demand, what safeguards are in place to address this? At this stage GPSC is seeking

additional information on market monitoring and how it and the FERC proposed SMD would work to prevent potential abuses and result in lower costs to Georgia ratepayers.

The Safety - Net Bid Cap (para. 413)

In order to deter gaming and attempts at manipulation by market participants, it may be necessary to have a uniform safety -net bid cap across the region.

FERC indicates that a safety-net bid cap such as the \$1000 per megawatt -hour cap currently used in Northeast markets and Texas, addresses the lack of price -responsive demand. Sellers could freely offer any amount of energy to the spot markets constrained only by the safety -net bid cap. The safety -net bid cap should allow markets to produce prices that reflect some (and perhaps a significant) amount of scarcity when shortages of reserves or power exist. However, absent demand response, it sets an outer bound on suppliers' ability to exercise economic withholding.

The idea of FERC imposing a system of electricity price regulation on Georgia and the Southeast where caps of \$1000 per MWh are deemed a necessary part of the FERC system set off alarm bells. Georgia's rates are well below the national average ². Moreover, the present system of utility regulation in the state has produced reliable electric power for its citizens. The ability to keep the benefits of low cost, local generation resources with the state's retail ratepayers is a major concern of the GPSC. The GPSC certainly will not endorse a FERC regulatory scheme that will lead to the state regulated electric utilities and their customers experiencing extended power outages (such as occurred in California) or paying \$1000 per MWh for electricity under a FERC tariff that could result in such costs being passed onto and borne by Georgia's ratepayers. The inclusion of bid caps of \$1000 as a necessary part of the FERC SMD

proposals suggest that fatal flaws may be inherent in the eFERC proposal which render it inferior to the present system of integrated resource planning and retail price regulation presently in place in Georgia.

Under the Georgia Public Service Commission's IRP Rules³, competitive bidding has been used as a proxy for and transition vehicle to full competition. When the need for new supply-side capacity is identified, the utility must issue a formal written Request for Proposal (RFP) to potential utilities, cogenerators, power marketers, power brokers and independent power producers/suppliers with sufficient lead time to allow for bid evaluations, certification and construction prior to the expected need date. This RFP process is done for each block of required new supply-side resource that is identified in the utility's Integrated Resource Plan. This process provides for limited competition in supplying capacity for new loads as identified and approved in the utilities' load forecasts and is a legitimate effort to attract new players to the market.

The GPSC is not aware of any instances where its regulated electric utilities have paid costs for purchased power anywhere close to the \$1000 per MWh used by FERC as its proposed bid cap. Moreover, FERC should not impose conditions or new market rules that will lead to power purchases costing \$1000 per MWh. The Southeast presently has a vibrant wholesale market in which substantial new generation is being proposed and built. Retail rates are among the lowest in the country, and electricity service reliability is very good.

Establishing Bid Caps or Competitive Reference Bids (para. 420 -428)

Under FERC's proposed rules, to mitigate market power, participating generator agreements would include provisions for must-offer obligations to mitigate physical

² Department Of Energy website, www.eia.doe.gov/cneaf/electricity/page/sales/annual_ave_prices.xls

³ Georgia Public Service Commission Integrated Resource Planning Rules, Chapter 515 -3-4-.04(3), Long - Term New Supply -Side Options.

withholding and bid caps to mitigate economic withholding. FERC recognizes that development of bid caps, especially for generators with significant opportunity costs such as hydro power and energy -limited units, is difficult and can be controversial. (para. 419) GPSC favors allowing each region to select its own preferred method for determining bid caps from the three methods identified by FERC. Allowing regional flexibility in this area would be preferable to FERC mandating a "one size fits all" approach.

In Georgia, peaking units are used extensively during daylight hours in the summer months, and during many hours peaking units would be on the margin during these periods. FERC suggests that: "The average cost of a new peaking unit at a given location operated over a given number of hours could form the basis for setting such a premium. This kind of adjustment to bid caps for peaking units could help support reliability until demand -side measures for responding to price were more fully incorporated in markets." The dispatch used by the Southern Company operating companies which serve Georgia reflects operation of an integrated system and the use of marginal costs for generating units (e.g., fuel cost, variable O&M, emission cost, start up) to determine economic dispatch order. During peak periods, either system peaking units or power purchased from off -system generation or both sources are used to meet peak loads. Utility use of standard energy products, such as 5x16 strips, and arranging firm transmission to assure such energy can be delivered to load centers when needed, has also occurred to assure reliable energy supply is available to serve customers during peak demand periods.

The use of a new peaking unit to set premiums could either result in (1) setting costs for peaking generation above the actual costs for existing units, or (2) setting costs too low, which would then produce a situation where the generation would under -recover its costs. The GPSC urges careful consideration of the potential ramifications of

establishing pricing for peaking resources before deciding pricing or the methodology to determine such pricing.

FERC indicates that hydro power units, in particular, should be offering all available capacity as operating reserves since their marginal operating costs are close to zero, but they may have high temporal opportunity costs. In Georgia, hydro power is an important source of generation, although a relatively small portion of the state's electricity needs are provided by hydro power. The operation of hydro units involves balancing environmental and economic concerns. Drought conditions in recent years have lowered the availability of hydro generation in Georgia. There have also been concerns about the impact on water temperature and fish kills which have limited the hours during which some system fossil fueled generating units can run. FERC asserts that: "there appear to be no economic reasons why such units should not always be fully committed either to the bilateral market or spot markets for operating reserves." However, there may be environmental reasons why hydro units and environmentally constrained fossil fueled units cannot be committed during certain periods and such constraints should be understood and flexibility to address such situations should be incorporated within FERC's methodology.

Submitting a seasonal or monthly schedule may be a reasonable way to address the limitations on hydro power and other constrained generation resources. However, flexibility must be provided to allow response to daily operational changes, such as temperatures. It is difficult to accurately predict weather and temperatures a month or a season in advance that could affect whether such constrained units are actually able to operate, and the level of generation such units could produce on a specific day. For example, drought conditions or a run of unusually hot weather could result in these generating sources being unable to produce at forecasted levels. Moreover, the timing of this reduced availability from such units could be occurring, for example, during a

period of hot weather where demand for electricity might be at or near a peak. Flexibility to address such situations should be incorporated within FERC's methodology. FERC's suggested requirement that participating generator agreements should contain bid caps for these operating reserves when they are needed for the operation of the transmission system and non-competitive conditions exist, may be sufficient for this purpose. However, GPSC believes that more information and discussion is needed to select such options for determining bid caps.

The GPSC appreciates the opportunity given by the FERC to provide its comments and thoughts on these important issues. As such, the Commission remains open to discussion on the position taken in this document.