**Dorothy Menasco** 080682-EQ

**From:** Richzambo@aol.com
**Sent:** Wednesday, November 19, 2008 9:34 AM
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**Subject:** Petition for Certification as a QF By Solid Waste Authority of Palm Beach County
**Attachments:** 111908~1.DOC

**1. Attorney responsible for this electronic filing:**

/s/ Richard A. Zambo

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**2. Docket numbers and titles in which filing is submitted:**

**TO BE DOCKETED** -- In re: Petition for Certification as a Qualifying Facility Pursuant To Rule 25-17.080, F.A.C. By The Solid Waste Authority of Palm Beach County, Florida

**3. Party on whose behalf this filing is submitted:**

The Solid Waste Authority of Palm Beach County

**4. Total number of pages in filing:**

14 (fourteen) pages

**5. Document attached:**

Petition for Certification As A Qualifying Facility By The Solid Waste Authority Of Palm Beach County, Florida

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If you have any questions or require anything further in this regard, please let us know immediately.

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# BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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|---|---|---|
| In re: Petition for Certification as a Qualifying Facility Pursuant To Rule 25-17.080, F.A.C. By The Solid Waste Authority of Palm Beach County, Florida | ) | Docket No. 080682EQ<br><br>Filed: November 19, 2008 |

## PETITION FOR CERTIFICATION AS A QUALIFYING FACILITY BY THE SOLID WASTE AUTHORITY OF PALM BEACH COUNTY, FLORIDA

The Solid Waste Authority of Palm Beach County (SWA), in accordance with Rules 28-106.201 and 25-17.080, Florida Administrative Code (F.A.C.), and applicable provisions of the Florida Statutes (F.S.), hereby petitions the Florida Public Service Commission (Commission) for certification as a Qualifying Facility (QF) pursuant to Commission rule 25-17.080(1).

1. The name, address, and contact information for the Petitioner are:

Solid Waste Authority
7501 North Jog Road
West Palm Beach, FL 33412
Attn: Executive Director
Phone (561) 640 4000
Fax (561) 640 3400

2. Copies of all correspondence, pleadings, and other documents should be provided to:

Richard A. Zambo
Richard A. Zambo, P.A.
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Palm City, FL 34990
Phone (772) 221-0263
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3. The SWA has been a producer of renewable energy in Florida since its "waste-to-energy" facility began operating in 1989. The SWA's existing facility disposes of municipal solid waste (MSW) by incineration, and in the process generates substantial quantities of steam for use in a steam turbine-generator with a nominal rating of 62.0 gross megawatts. Annually, the facility incinerates approximately 650,000 tons of refuse derived fuel (RDF) – produced from MSW – and produces approximately 400, 000 megawatt hours of renewable electric energy. The majority of the electric energy produced is currently sold to Florida Power and Light (FPL) pursuant to a contract for firm energy and capacity which was executed in January 1987 and expires in March 2010. SWA and FPL are engaged in negotiations to extend that contract.

4. The SWA has recently authorized, and work has commenced, on a major expansion of its waste-to-energy capability, including the construction of additional MSW incineration, steam generation and electric generation facilities. The new MSW-fueled expansion, currently planned for commercial operation in 2015, will add approximately 100 gross megawatts to the SWA's total electricity generating capacity at the site. In addition, pending final design, the SWA may add one or more smaller increments of electrical generating capacity to be fueled by landfill gas of up to an aggregate total of approximately 18 gross megawatts. The timing of the landfill gas-fueled addition, if any, is presently unknown. Accordingly, based on current estimates, the SWA's plans could result in a total aggregate renewable energy electrical generating capacity at the site of up to a maximum of 185[1] gross megawatts.

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[1] Although the aggregated gross generating capacity of the existing facility, the MSW expansion and the landfill gas potential is currently estimated at 180 mW, in an abundance of caution SWA seeks certification for 185 mW total.

5. As noted, the existing facility relies on what is referred to as an RDF process in which the recyclable or non-combustible materials are removed prior to incineration of the MSW stream. The new MSW-fueled facility expansion is currently anticipated to use a mass-burn process, which is distinguishable from RDF in that the non-combustible materials are removed after incineration of the MSW stream. Both RDF and mass-burn processes, which have been in use for many years, are proven and mature technologies capable of incinerating MSW and producing electricity in a highly reliable fashion over long periods of time. The landfill gas-fueled facility expansion would rely on reciprocating engines, combustion turbines or steam turbines to convert landfill gas into electricity. All of these are proven, mature and highly reliable technologies.

6. The SWA's existing 62.0 gross megawatt facility meets all of the criteria for certification as a "biomass"-fueled qualifying small power production facility under the rules of the Federal Energy Regulatory Commission (FERC). However, the SWA's expanded facility will substantially exceed the FERC's 80 megawatt size limitation imposed on qualifying small power production facilities. As a result, if the SWA expands the site to over 80 megawatts, neither the existing nor expanded facility would qualify as a small power production facility under FERC rules. This result could be untenable for the SWA, placing in jeopardy the SWA's ability to expand the facility with the addition of significant amounts of needed renewable energy capacity.

7. Although the SWA's expanded facility will significantly exceed the size limitation of the FERC's rules, and thereby not be deemed a qualified small power production facility for Federal law purposes, it will nevertheless clearly serve to promote the purposes of the Florida Energy Efficiency and Conservation Act ("FEECA") - codified as Sections 366.80-

.85 & 403.519, F.S. - Section 366.91, F.S., Section 366.051, F.S., and Commission Rule 25-17.080(1), F.A.C.

8. Commission Rule 25-17.080(1) provides that: ***"Small power producers and cogenerators which fail to meet the FERC criteria for achieving qualifying facility status but otherwise meet the objectives of economically reducing Florida's dependence on oil and the economic deferral of utility power plant expenditures may petition the Commission to be granted qualifying facility status for the purpose of receiving energy and capacity payments pursuant to these rules."*** The SWA's expanded facilities will generate electricity from MSW and landfill gas – both of which are defined as renewable energy resources under Section 366.91, F.S, (and also identified as qualifying fuels under FERC regulations) - thereby advancing, promoting and contributing to the achievement of all the goals stated in the Commission's rule. Accordingly, the Commission should grant the requested certification for the proposed expanded facility for up to a maximum of 185 gross megawatts.

9. In further support of this Petition for Certification as a Qualifying Facility ("Petition"), electricity produced by "base-loaded" facilities using biomass fuels, such as MSW and landfill gas, can replace or displace the use of fossil fuels for electric generation, consistent with the Governor's Executive Order 07-127.

## I. BACKGROUND

10. The SWA is a Florida local governmental entity of Palm Beach County, Florida constituting a "dependent special district" specifically authorized by the Florida Legislature to collect and dispose of municipal solid waste (MSW) produced in areas in and around Palm Beach County. The SWA currently disposes of MSW from Palm Beach County residents

and municipalities (SWA Area). The SWA currently disposes of MSW collected in the SWA Area via incineration, using the by-product heat to produce steam which is used to generate electricity via the existing 62.0 MW steam turbine-generator. MSW is defined as a renewable energy resource by Section 366.91, F.S., and qualifies the SWA's facility as a "qualifying small power production facility" under rules of the FERC.

11. As the existing facility is nearing its tonnage incineration limits, the SWA has embarked on an MSW-fueled facility expansion that would provide approximately 100 gross megawatts of additional electric generating capacity at the existing site in central Palm Beach County. As noted previously, a landfill gas-fueled component of the expansion, of up to approximately 18 gross megawatts of electric generating capacity, is also being considered.

12. The MSW-fueled expansion will be capable of disposing of approximately 3,000 tons of MSW per day, while producing in the range of 725,000 megawatt hours of renewable electric energy annually for sale to FPL or other Florida utility. Like the existing facility, the expanded facility will comply with all applicable permitting, land use and environmental requirements during construction, startup and operation.

13. The SWA's expanded facility will provide a proven, substantial and very reliable supply of much needed renewable energy produced from MSW, or a combination of MSW and landfill gas, thereby displacing significant amounts of electricity that would otherwise be generated by utility generating plants operating on natural gas or other fossil fuels. The Florida Legislature has long recognized the value of generating electricity from MSW - at least since 1976 when it mandated that 19 of the State's 67 Counties (including Palm Beach County), consider Waste-to-Energy as part of solid waste planning. Most recently, the Florida Legislature further acknowledged the benefits of energy production from MSW in

2008 when it established that solid waste used for the production of electric energy will be counted toward the 75% statewide recycling goal.

## II. STATEMENT OF SWA'S AFFECTED INTERESTS

14. The Commission is asked to certify the SWA's expanded facility as a qualifying facility under its rule 25-17.080(1) which certification is a crucial component of the economic viability and feasibility of the expanded facility and the accompanying supply of renewable energy to the State's electrical grid.

## III. DISCUSSION AND ANALYSIS OF SWA CIRCUMSTANCES

15. The SWA requests that the Commission certify the expanded facility as a qualifying facility under the Commission's rules in order to further the purposes of FEECA, the Commission's rules implementing FEECA, Section 366.91, F.S., and Section 366.051, F.S.

16. Pursuant to Rule 25-17.080(1), F.A.C., the SWA respectfully requests the Commission to grant the expanded facility ***"qualifying facility status for the purpose of receiving energy and capacity payments pursuant to [the Commission's] rules"*** for a facility of up to 185 gross megawatts. As explained below, the SWA's expanded facility will ***"meet the objectives of economically reducing Florida's dependence on oil and the economic deferral of utility power plant expenditures."*** In addition, the expanded facility will further the legislatively established and endorsed purposes of Sections 366.051 and 366.91(1) of, among other things:

a. using renewable energy resources in a small power production facility to meet Florida's electricity demands;

b. diversifying Florida's electricity generation fuel mix;

c. reducing Florida's dependence on natural gas as an electric generation fuel;

d. improving environmental conditions; and,

e. encouraging new renewable energy resource investment in the state.

**A. Statutes and Rules Entitling The SWA To The Relief Requested**

17. As described and discussed in detail below, the SWA is specifically entitled to its requested certification as a Qualifying Facility by Rule 25-17.080(1), F.A.C., as supported by the expanded facility's furtherance of the public interest consistent with FEECA, Section 366.91, F.S. and Section 366.051, F.S.

18. FEECA, at Section 366.81, F.S., provides, in pertinent part, that ***"Since solutions to our energy problems are complex, the Legislature intends that the use of . . . renewable energy sources . . . be encouraged.***

19. Commission Rule 25-17.080(1), F.A.C., which implements FEECA, provides in part:

> ***25-17.080 Definitions and Qualifying Criteria***
>
> *(1) For the purpose of these rules the Commission adopts the Federal Energy Regulatory Commission Rules 292.101 through 292.207, effective March 20, 1980, regarding definitions and criteria that a small power producer or cogenerator must meet to achieve the status of a qualifying facility. Small power producers and cogenerators which fail to meet the FERC criteria for achieving qualifying facility status but otherwise meet the objectives of economically reducing Florida's dependence on oil and the economic deferral of utility power plant expenditures may petition the Commission to be granted qualifying facility status for the purpose of receiving energy and capacity payments pursuant to these rules.*
>
> *(2) In general, under the FERC regulations, a small power production facility is a qualifying facility if:*
>
> > *(a) the small power production facility does not exceed 80 megawatts of electrical generating capacity; and,*

> *(b) the primary energy source of the small power production facility is biomass, waste or other renewable resource and 75percent or more of the total energy input is from such sources.*

20. Section 366.91(1), F.S., declares the Legislature's intent to promote renewable energy resources in Florida, through the following findings:

> *The Legislature finds that it is in the public interest to promote the development of renewable energy resources in this state. Renewable energy resources have the potential to help diversify fuel types to meet Florida's growing dependency on natural gas for electric production, minimize the volatility of fuel costs, encourage investment within the state, improve environmental conditions, and make Florida a leader in new and innovative technologies.*

21. Section 366.051, F.S. provides in pertinent part that *"Electricity produced by cogeneration and small power production is of benefit to the public when included as part of the total energy supply of the entire electric grid of the state . . . ."*

**B. Statement Explaining How the Facts Alleged By The SWA Relate to the Above-Cited Rules and Statutes In Compliance With Section 120.54(5)(b)4.f, Florida Statutes**

22. Applying the criteria set forth in the above rules and statutes to the SWA's expanded facility, it is clear that the facility will promote all of the substantive goals of the rules and the statutes; and, but for the 80 megawatt size limitation of the FERC rule's on qualifying small power production facilities, it would qualify as a QF under the FERC rules. The expanded facility will satisfy the criteria set forth in rules and statutes in the following ways.

a. Relative to Rule 25-17.080(1), F.A.C., because the SWA anticipates selling the electricity generated by the expanded facility to FPL or other Florida electric utility at avoided cost, the expanded facility will be a cost-effective source of renewable energy. That is, it will meet the objective of

economically deferring utility power plant capital and/or fuel expenditures, and it will economically reduce Florida's dependence on oil and other fossil fuels. Consistent with the intent of the Rule and FEECA, the expanded facility will also economically reduce Florida's dependence on natural gas and expensive fossil fuel.

b. Relative to Rule 25-17.080(2), F.A.C., with the exception of limited amounts of natural gas used for startup and flame stabilization purposes, measured on an annual BTU basis for the MSW-fueled component of the expansion, the expanded facility's fuel will be nearly 100% MSW or landfill gas – both renewable energy resources as defined under Florida law and considered to be qualifying energy sources under FERC's regulations relating to qualifying small power production facilities. These renewable fuels are rare indigenous Florida energy resources that are readily available and produced by the large and growing population in the SWA Area.

c. Relative to FEECA, the expanded facility will be fueled by Florida indigenous renewable energy resources of exactly the type that the Legislature intended to encourage through FEECA. As noted above, the electricity produced and sold by the expanded facility is expected to be sold at avoided cost and therefore provide a cost-effective source of renewable energy to the State's electric utility system.

d. Relative to Section 366.91, F.S., the expanded facility will: **(1)** be a renewable electricity generation resource located in Florida and fired by Florida indigenous renewable fuels – MSW and landfill gas; **(2)** reduce Florida's

dependency on natural gas as an electric generating fuel; **(3)** reduce volatility of fuel costs by displacing utility generation fueled by oil and gas – both fuels demonstrating substantial pricing volatility in recent years; **(4)** encourage significant new capital investment of over $700 million and create significant additional employment (approximately 70 new permanent jobs in addition to approximately 400 construction jobs during the three year construction) in Florida; **(5)** improve environmental conditions by replacing or displacing electricity generated by fossil fuels; and, by substantially reducing the volume of waste to be disposed at Florida landfills by approximately 90%; and, **(6)** make Florida a leader in MSW and landfill gas-fueled electricity generation.

e. Relative to Section 366.051, F.S., as a renewable-fueled small power production facility, the expanded facility will be of public benefit as part of the state's total energy supply.

**C. Disputed Issues of Material Fact**

23. The SWA is not aware of any disputed issues of fact relative to this petition.

24. The SWA states that the following are issues of material fact that the Commission should determine in granting the SWA's requested QF certification.

a. Whether the expanded facility will be a qualifying small power production facility.

b. Whether the expanded facility will be a renewable electricity generation facility.

c. Whether the expanded facility's operation will reduce Florida's dependence on oil and natural gas as electric generating fuels.

d. Whether the expanded facility will provide cost-effective capacity and energy to Florida's utility system.

e. Whether the expanded facility will reduce the volatility of fuel costs to Florida's electric utilities and their customers.

f. Whether the expanded facility encourages new investment in Florida's energy production infrastructure.

g. Whether the expanded facility will improve environmental conditions in Florida.

**D. Statement of Ultimate Facts Alleged**

25. The SWA is entitled to the requested certification as a qualifying facility pursuant to Commission Rule 25-17.080(1), F.A.C., by the following facts.

a. SWA's expanded facility will be a small power production facility in that it will be fueled by nearly 100 percent biomass fuel on an annual BTU basis.

b. The expanded facility will be a renewable electricity generation facility in that the facilities MSW and landfill gas fuels will be rare Florida indigenous renewable energy resources.

c. The expanded facility will include up to 100 gross megawatts of MSW-fueled electric generating capacity and will potentially include up to approximately 18 gross megawatts of landfill gas-fueled electric generating capacity. Some or all of the net electric energy produced by the expanded facility is anticipated to be available for sales to FPL or other Florida electric utility.

d. The expanded facility's operation will reduce Florida's dependence on oil and natural gas as electric generating fuels.

e. The expanded facility will provide cost-effective capacity and/or energy to Florida's electric utility system.

g. The expanded facility will reduce volatility of fuel costs by displacing utility generation by oil and gas – fuels demonstrating substantial pricing volatility in recent years – thereby adding significant price-stable renewable fuel to the mix.

h. The expanded facility will be constructed at a cost of over $700 million of new investment in Florida's electric generation infrastructure.

i. The expanded facility will create approximately 70 new permanent jobs associated with commercial operation of the facility and ancillary

requirements, and approximately 400 temporary construction jobs in Florida over the construction period in the range of three years.

j. The expanded facility will improve environmental conditions in Florida by replacing or displacing electricity generated by fossil fuels; and, by substantially reducing the volume of waste to be disposed at Florida landfills - by approximately 90%.

## IV. CONCLUSION

26. The SWA has been a producer of renewable energy in Florida since its municipal solid waste-to-energy facility began operating in 1989. The SWA's existing facility disposes of waste by incineration, and in the process generates substantial quantities of steam for use in a 62.0 megawatt steam turbine-generator. The existing facility generates approximately 400,000 megawatt hours of renewable electric energy annually, the majority of which is sold to Florida Power and Light (FPL) pursuant to a contract for firm energy and capacity which was executed in January 1987 and expires in March 2010. SWA and FPL are now engaged in negotiations to extend that contract for an additional twenty years.

27. The SWA has recently approved and has commenced work on a major expansion of its waste-to-energy capability, including the construction of additional MSW incineration, steam generation and electric generation facilities. The MSW-fueled expansion, currently planned for commercial operation in 2015, will add approximately 100 gross megawatts to the SWA's total electricity generating capacity at the site. In addition, pending final design, the SWA may add one or more smaller increments of electrical generating capacity to be fueled by landfill gas of up to an aggregate total of approximately 18 gross megawatts. The timing of the landfill gas-fueled addition, if any, is presently unknown. Accordingly, the SWA's plans could result in a total aggregate renewable energy electrical generating capacity at the site of up to a maximum of 185 gross megawatts.

28. It is anticipated that the additional electric energy produced by the expanded facility will be sold to FPL or other Florida electric utility.

29. The SWA's existing 62.0 gross megawatt facility meets all of the criteria for certification as a qualifying small power production facility relying on "biomass" under the rules of the Federal Energy Regulatory Commission (FERC). However, the SWA's expanded facility will substantially exceed the FERC's 80 megawatt size limitation imposed on qualifying small power production facilities. As a result, if the SWA expands the site to over 80 megawatts, neither the existing nor expanded facility would qualify as a small power production facility under FERC rules. This result could be untenable for the SWA, thereby placing in jeopardy the SWA's ability to expand the facility with the addition of significant amounts of renewable energy capacity.

30. Although the SWA's expanded facility will exceed the size limitation of the FERC's rules, and therefore not meet the requirements of a qualified small power production facility for Federal law purposes, it will nevertheless clearly serve to promote the purposes of FEECA, of Section 366.91, F.S., of Section 366.051, F.S., and of Commission Rule 25-17.080(1), F.A.C.

31. Except for its larger size (a potential total of 185 gross megawatts of electric generating capacity) the SWA's expanded facility will satisfy all applicable criteria for certification as a QF, and will further the energy policy and public interest purposes endorsed by the Florida Legislature. Accordingly, the Commission should grant the SWA's Petition for Certification as a Qualifying Facility with up to 185 gross megawatts of electrical generating capacity.

## V. RELIEF REQUESTED

WHEREFORE, the SWA respectfully requests that this Commission issue its Order granting this Petition by: (i) certifying the expanded facility of up to 185 gross megawatts of electrical generating capacity as a ***qualifying facility*** pursuant to Commission Rule 25-17.080(1), F.A.C.; and, (ii) finding that such certification is in all respects fully consistent with the public interest and energy policy goals of applicable Florida Statutes.

Respectfully submitted this 19th day of November, 2008.

/s/ Richard A. Zambo

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Florida Bar No. 312525

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