



December 3, 2008

Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket No. 080503-EI
In re: Establishment of Rule on Renewable Portfolio Standard
Comments of Clean Energy Group
Florida Public Service Commission Rule Development Workshop

Dear Commissioners:

Enclosed please find the comments of Clean Energy Group relevant to the Rule Development Workshop on Renewable Portfolio Standard, December 3, 2008, in Docket No. 080503-EI.

Sincerely,

s/ Mark Sinclair
Vice President
Clean Energy Group

Attachments: Comments & Slide Attachment

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

**IN RE: Establishment of Rule on Renewable
Portfolio Standard**

Docket No. 080503EI

COMMENTS OF CLEAN ENERGY GROUP **Rule Development Workshop** **December 3, 2008**

Clean Energy Group (CEG) submits these comments regarding specific RPS issues being considered at the Rule Development Workshop, December 3, 2008. CEG's recommendations and observations are based on best practices emerging from other state RPS laws. CEG is a nonprofit organization working in the U.S. and internationally on technology, finance and policy programs in the area of clean energy. CEG works with states across the country to advance the success of RPS programs.

Recommendation: Propose More Ambitious RPS Targets

At the end of 2008, at least 28 states will have RPS policies. As indicated in the attached *slides 2 and 3*, the proposed Florida draft Rule's targets would be the least stringent in the country. The modest standards proposed in the draft Rule also are out of step with the trend in most RPS states to increase renewable electricity targets to realize the full potential from renewable resource economic development. The existing state RPS programs have established ambitious, but achievable targets in order to create an investment climate and utility framework that is conducive to renewable energy finance, business development, and market transformation. In contrast, the Florida draft Rule's minimal mandate and slow ramp up is unlikely to have any meaningful impact in driving significant new renewable resource development in Florida, certainly for many years.

Recommendation: Provide More Effective Support for Distributed Generation

Because of concern that traditional RPS programs are benefiting only least-cost projects —such as onshore wind and landfill gas – an increasing number of states are designing their programs to provide differential support to currently higher cost technologies and customer-sited applications. As *slide 4* indicates, the most popular of these mechanisms is preferential support for solar energy specifically and customer-sited distributed generation more generally. Solar and DG set-asides, in combination with state and federal incentives, are beginning to have significant impact on solar markets in the U.S.

The Florida draft Rule proposes a set aside for wind and solar resources. However, it is not designed to effectively advance distributed generation and smaller-scale PV systems. It also fails to address the financing and solicitation barriers that customer-sited renewable energy projects face due to their small individual size. Therefore, CEG recommends that the Florida RPS include

a more effective mechanism to ensure support for DG, recognizing the benefits that these resources provide to the public.

Specifically, a Florida solar/distributed set-aside should include the following provisions to ensure DG market expansion, longer term REC contracting, and upfront financial incentives for smaller scale systems. The provisions are based on the Maryland RPS, lauded as one of the more effective RPS programs for advancing smaller scale solar deployment.

- Establish a specific set aside for solar/DG as a percentage of retail sales that ratchets up over time
- Require obligated utilities to purchase RECs directly from solar/DG energy owners by entering into a contract for at least 15 years
- Require obligated utilities to purchase RECs from renewable energy systems with a capacity of 10kW or less with a single upfront payment representing the full estimated projection of the system production for the life of the contract
- The PSC should develop a method for estimating annual production, determined by the REC payment amount, and designate an entity to develop the solar/DG program requirements and outreach activities
- Establish a solar/DG alternative compliance payment for any obligated utility that fails to meet the set-aside, with the payment dedicated to a Fund to be used to support grant and loan programs to fund new DG resources in the state.
- Provide a significant, long-term solar/DG financial incentives to customers through use of a system benefit charge or tariff. Because solar energy remains relatively expensive when compared to other renewable energy technologies, most of the states with solar set-asides also offer financial incentives to assist with solar compliance.

Observation: State RPS Cost Impacts Have Been Modest

It is evident that the PSC is concerned about the potential cost impacts if Florida adopts a serious RPS program. However, recent analysis by Lawrence Berkeley National Laboratory indicates that the expected bounds of rate impacts from state RPS laws are modest. *See slides 5 & 6.*

LBNL synthesized the results of 30 distinct cost impact analyses completed since 1998, examining RPS costs and rate impacts in 18 RPS states. The key findings show that the projected rate impacts of RPS laws are generally and relatively modest. *See Chen, Wisner & Bolinger, Weighing the Costs and Benefits of State RPS: A Comparative Analysis of State-Level Policy Impact Projections (March 2007). See slide 5.* And when these electricity cost impacts are combined with possible state RPS-induced natural gas price reductions and corresponding gas bill savings, the overall cost impacts are even smaller. According to the LBNL analysis,

Projected rate impacts are generally modest. Seventy percent of the state RPS cost studies in our sample [predict] base-case retail electricity rate increases of no greater than one percent in the year that each modeled RPS policy reaches its peak percentage targets. In six of those studies, electricity consumers are expected to experience cost *savings* as a result of the state RPS policies being modeled. ...

When translated to monthly electricity bill impacts for a typical residential customer, these impacts range from a savings of over five dollars per month to an increase of over seven dollars per month. However, the median bill impact across all of the studies in our sample is an increase of only \$0.38 per month.

Id. at i-ii (emphasis in original)¹

In a recent April 2008 study, LBNL confirms that the rate impacts of state RPS policies have been modest in most cases so far. *See* Wisner & Barbose, LBNL, *Renewable Portfolio Standards in the U.S.: Status Report with Data Through 2007* (April 2008). *See slide 6.*

Though the results vary across states, in most cases, rate increases are estimated at 1% or less in 2007. Moreover, the rate impacts shown here may, in some states, be biased upwards due to at least two factors: (1) longer-term REC contracts are likely to be priced below the short-term REC prices used for these calculations, and (2) the rate estimates presented here ignore the potential impact of renewable energy in reducing natural gas and wholesale electricity prices.

Id. at 29.

The LBNL 2008 report also found that, in a number of states, there is evidence that the renewable energy contracted in recent years has been priced competitively with conventional sources of generation. *Id.* at 30. In California, for example, the majority of the renewable electricity bought under contract by the state's utilities since 2002 has been signed at prices that are below the market price referent – the estimated cost of new gas-fired generation. *Id.*

Recommendation: Establish Alternative Compliance Payment Mechanism

CEG recommends that the Florida Rule include an alternative compliance payment (ACP) that requires utilities to pay a pre-determined amount per kWh if they fall short in meeting RPS targets. An ACP has become the most popular and effective means of ensuring compliance with an RPS, and makes the need for explicit penalties moot.

Use of an ACP recently was endorsed by a national forum of RPS administrators. The national State/Federal RPS collaborative, facilitated by CEG, recently developed a set of “Recommended Principles and Best Practices for State RPS Programs”. These recommendations were based on input from state RPS managers from across the country and LBNL analysis. The recommendations specifically address how states should design an RPS program to ensure enforcement effectiveness:

The RPS should be mandatory and impose repercussions on those entities that fail to meet mandates. There should be clear rules for enforcement, providing confidence to developers that suppliers will make required purchases.

¹ LBNL found that these rate impact studies appear to have substantially underestimated natural gas prices, which are perhaps the most important input to the avoided cost estimates of the RPS studies. Current natural gas prices are much higher than assumed by the studies. *Id.* at iv.

At the same time, RPS policies ideally should allow some compliance flexibility in the face of supply constraints that are difficult to predict.

Alternative compliance payments and other cost caps should be considered as part of enforcement rules. To be effective, any alternative compliance payment schedule must reflect the cost of compliance. That is, these payments should be set at a level significantly higher than the estimated compliance cost for procuring renewable electricity or RECs, if additional generation is to be encouraged. If the payments are set significantly below the cost of compliance, entities will choose not to comply and the RPS program will be rendered less effective. An effective practice is to allow covered suppliers to make payments into a renewable energy development fund in lieu of procuring renewable resources. This offers a less punitive enforcement approach. It is important to put provisions in place that ensure that these funds are used only to support development of renewable energy.

State/Federal RPS Collaborative, *Recommended Principles and Best Practices for State Renewable Portfolio Standards*, November, 2008.

Today, nine RPS jurisdictions use ACPs (Maine, Massachusetts, New Hampshire, New Jersey, Rhode Island, Delaware, Maryland, Oregon, and Washington D.C.). A common element of these ACP mechanisms is the use of the payments to support new renewable energy development, often administered by creation of a clean energy fund. CEG recommends that the Florida Rule ensure that the monies from noncompliance payments be used as a contribution to a fund dedicated to support and promote Florida renewable projects.

If the PSC is concerned about its authority to establish such a fund, the Commission could present the ACP option to the Legislature with its rationale and merits.

To be effective, an ACP should reflect the cost of compliance and be set at a level significantly higher than the estimated compliance cost for procuring RECs if additional generation is to be encouraged. If the payments are set significantly below the cost of compliance, utilities will choose not to comply and the RPS program will be rendered less effective. Most state ACP levels have been set at a level of at least \$50 MWh, adjusted for inflation.

Respectfully submitted this 3rd day of December, 2008 by:

s/ Mark Sinclair

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