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Attachments: Wheelabrator Comments 110306.pdf

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Docket No. and title: In re: Proposed Amendments to Rule 25-17.0832, F.A.C., Firm Capacity and Energy Contracts
Docket No. 060555-EI

Filed on behalf of: Wheelabrator Technologies, Inc.

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Document attached: Comments of Wheelabrator Technologies, Inc.

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Proposed amendments to Rule 25-17.0832, F.A.C., Firm Capacity and Energy Contracts. ______________________________/

Docket No. 060555-EI

Filed: November 3, 2006

Comments of Wheelabrator Technologies, Inc.

Pursuant to Order Establishing Procedures to Be Followed at Rulemaking Hearing, Order No. PSC-06-0849-PCO-EI, Wheelabrator Technologies Inc. (Wheelabrator) files the following comments on the proposed amendments to Rule 25-17.0832, Florida Administrative Code. Wheelabrator urges the Commission not to adopt the rule as proposed, but to instead adopt the rule proposed by the Renewables Group as discussed below.

Introduction

Wheelabrator is a renewable energy generating company that produces clean energy using waste fuels and has extensive experience in the renewable industry. The renewable energy plants that Wheelabrator owns and/or operates have a combined generating capacity of almost 850 MW, enough renewable energy to fill the electrical energy needs of more than 800,000 homes.

Wheelabrator is a pioneer in the commercial waste-to-energy industry in the United States. In 1975, Wheelabrator built and operated the country's first commercially successful waste-to-energy plant in Saugus, Massachusetts. That facility continues to operate today.

Wheelabrator currently owns and/or operates 17 waste-to-energy facilities and six independent power production (IPP) facilities. Three of the IPP facilities are also considered renewable or alternative energy facilities. Wheelabrator owns three plants in

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Florida: two waste-to-energy facilities located in Broward County with a combined electric generating capacity of 143 MW, and a facility that produces electricity from waste wood, waste tires, and landfill gas located in Auburndale, which has an electric generating capacity of 50 MW. Wheelabrator also operates the waste-to-energy plant owned by Pinellas County, with a generating capacity of 77 MW, and the waste-to-energy plant owned by the City of Tampa, which has a generating capacity of 22 MW.

Background

In 2005, the Florida Legislature enacted section 366.91, Florida Statutes. The new law states:

> 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.[1]

The legislation goes on to require that each public utility must continuously offer a purchase contract to renewable energy producers and base the contract's payments on full avoided cost.[2] As the sponsor of the legislation, Senator Mike Bennett, explained in correspondence to the Commission dated October 2, 2006: ". . .Section 366.91, F.S. is intended to immediately diversify Florida's fuel mix and reduce reliance on natural gas for electricity production by bold actions designed to encourage renewable energy facilities – both existing and new." Thus, with the enactment of this new section, the Legislature signaled a clear move away from business as usual and indicated its intent that the Commission act quickly to implement the Legislature's direction.

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[1] Section 366.91(1), Florida Statutes (2005).
[2] Section 366.91(3), Florida Statutes (2005).

In 2006, the Legislature *again* reiterated its intent that renewable energy be promoted in the state of Florida:

> It is the intent of the Legislature to promote the development of renewable energy; protect the economic viability of Florida's existing renewable energy facilities; diversify the types of fuel used to generate electricity in Florida; minimize the volatility of fuel costs; encourage investment within the state; improve environmental conditions; and, at the same time, minimize the costs of power supply to electric utilities and their customers.[3]

Over a year ago, the Commission began proceedings to implement section 366.91 and Wheelabrator has been a participant throughout the process. A series of workshops were conducted which ultimately resulted in the Commission's notice of the proposed rule that is the subject of this hearing. Throughout these proceedings, Wheelabrator, and other renewable generators, continued to urge the Commission and Staff that slight changes to the decades old qualifying facility (QF) rules were not in compliance with the newly enacted legislation.[4]

At its Agenda Conference on September 21, 2006, the Commission proposed the rule that is the subject of this hearing.[5] It is Wheelabrator's position that the proposed rule fails to comply with and implement the legislative directives of sections 366.91, .92. With slight exceptions, the proposed rule does little more than make some small adjustments to the Commission's rules for QFs. As Senator Bennett noted in his correspondence of March 6, 2006: "I caution you not to maintain the status quo. The Legislature clearly intends in Section 366.91 that the purchase of renewable energy be

[3] Section 366.92(1), Florida Statutes (2006).

[4] *See, i.e.*, comments of Wheelabrator made at the workshops held on September 12, 2005, March 6, 2006 and August 23, 2006, as well at the Agenda Conferences held on December 20, 2005 and October 3, 2006.

[5] It should be noted that at the September 21st Agenda Conference, at which the Commission voted to propose the current rule, several Commissioners were careful to state that their vote to propose the rule should not be interpreted as an endorsement of the proposal. Transcript, October 3, 2006 Agenda Conference at pp. 77-78.

encouraged – and that means at a price that reflects their value to the state." The proposed rule simply fails to comply with the statutory mandates described above.

Wheelabrator's Comments on the Proposed Rule

Wheelabrator concurs with and supports the proposed rule and testimony of Frank Seidman sponsored by the Renewables Group. Wheelabrator agrees that a separate renewable rule is needed, rather than the proposed small adjustments to the QF rules, to ensure that the legislative directives discussed above are met.

The Renewables Group's proposal will have the effect of encouraging renewable generation, so as to meet the goals set out in section 366.91. Specifically, the Renewables Group's proposed rule will help diversify Florida's fuel mix, reduce the state's growing dependency on natural gas for electric production, minimize fuel price volatility, encourage renewable generators to invest in the state, and be environmentally friendly – all clear legislative goals. The proposed statewide avoided unit pricing and the payment to renewable generators when they begin delivering capacity and energy to the grid will encourage more renewable generation and help meet the Legislature's goals. Staff's payment proposal, which focuses on the in-service date of the avoided unit, would jeopardize the viability of existing renewable facilities when their current power contracts expire. Those facilities cannot postpone receiving payments until some artificial future date.

Wheelabrator urges the Commission to adopt the rule the Renewables Group has proposed and to take the necessary steps to ensure that renewable energy will be available to help meet the energy needs of Florida's citizens.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Comments of Wheelabrator Technologies, Inc. was served via e-mail and U.S. mail this 3rd day of November, 2006, to the following:

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