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From: ljacobs50@comcast.net
Sent: Thursday, September 27, 2007 9:31 PM
To: Filings@psc.state.fl.us
Subject: Amended Comments RPS
Attachments: SACEs written comments on proposed RPS rule - Amended 9-28-07 filed.doc

Attached please find amended comments on behalf of the Southern Alliance for Clean Energy and the Natural Resources Defense Counsel in the undocketed matter of a Renewable Portfolio Standard.

Regards,
E. Leon Jacobs

9/28/2007

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FPSC-COMMISSION CLERK

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September 28, 2007

Ann Cole
Director, Office of the Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Blvd
Tallahassee, Florida 32399-0850

RE: AMENDED COMMENTS - In the Matter of: Renewable Portfolio Standard.

Dear Ms. Cole:

On behalf of the Southern Alliance for Clean Energy, and the Natural Resources Defense Council, I have enclosed for filing the amended comments for consideration by the Florida Public Service Commission in this undocketed matter. I thank you for your attention to this matter.

Sincerely,

/s/ E. Leon Jacobs, Jr.

E. Leon Jacobs, Jr.

Enclosures

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In the matter of)
RENEWABLE PORTFOLIO STANDARD)
_____)

UNDOCKETED

Submitted: September 12, 2007

**AMENDED COMMENTS AND SUGGESTIONS OF THE
SOUTHERN ALLIANCE FOR CLEAN ENERGY, AND OF
THE NATURAL RESOURCES DEFENSE COUNSEL,,
PERTAINING TO RULEMAKING ON A RENEWABLE PORTFOLIO STANDARD**

The Southern Alliance for Clean Energy, Inc., ("SACE") is a nonprofit, nonpartisan organization that promotes responsible energy choices that in turn provide solutions to global warming problems and ensure clean, safe and healthy communities throughout the Southeast.. The Natural Resources Defense Council ("NRDC") is a nonprofit organization whose purpose is to safeguard the Earth: its people, its plants and animals and the natural systems on which all life depends. NRDC has a total constituency of 1.2 million members and activists, including 63,000 in Florida.

SACE and NRDC thank the Florida Public Service Commission ("Commission") and its Staff for the opportunity to submit comments regarding the establishment of a renewable portfolio standard in Florida. It is our hope that in making these comments we succeed in communicating to the Commission a common vision for the incredible potential that renewable and clean energy resources have in Florida's energy portfolio.

Overview of Renewable Technology and Renewable Portfolio Standards

The Florida Legislature has defined "renewable energy" as

"electrical energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen produced from sources other than fossil fuels,

biomass, solar energy, geothermal energy, wind energy, ocean energy, and hydroelectric power. The term includes the alternative energy resource, waste heat, from sulfuric acid manufacturing operations. ...”.¹

As a matter of public policy, the Legislature has determined that renewable energy must be promoted and fostered in Florida in order to diversify our electricity fuel sources and reduce dependency on fossil fuels.² The Commission has endorsed this policy by requiring Florida’s investor-owned utilities to implement a standard offer contract pricing for renewable generators through a Fossil Fuel Unit Type Portfolio approach.³ The Standard Offer Portfolio approach encourages development of renewable energy resources by allowing renewable generators to choose from a menu of contracts based on various generating technologies, with different pricing, timing, and operating characteristics.

The Governor’s Executive Order No. 07-127 builds on this commitment, calling for a renewable portfolio standard (“RPS”) that will ensure that Florida meets at least 20% of its demand for electricity from renewable sources. An RPS is a market-based mechanism that obligates each retail seller of electricity to include in its resource portfolio (that is, the resources procured by the retail seller to supply its retail load) a certain amount of electricity from renewable energy resources.⁴ The retailer can satisfy this obligation by either: (a) owning a renewable energy facility and producing its own power, (b) purchasing power from someone else’s facility, or (c) purchasing a tradable renewable energy certificate (“REC”), which represents the generation and delivery of a specified amount of renewable energy into the Florida

¹ Section 366.91, Florida Statutes.

² Section 366.91(1).

³ Rule 25-17.0832(4)(a), Florida Administrative Code

⁴ N. Rader, S. Hempling, *The Renewable Portfolio Standard: A Practical Guide*, Report prepared for the National Association for Regulatory Utility Commissioners, February, 2001; at pg. Ch.1-1.
<http://www.naruc.org/goto.cfm?returnto=displayindustrynews.cfm&industrytopicnbr=380&page=www.naruc.affiniscape.com/associations/1773/files/rps.pdf>.

power pool. The Commission can adopt a rule that allows for one or more of these compliance strategies, since all will expand development of renewable resources to meet Florida's energy needs.

RPS policies use minimum targets for renewable energy to set up retail electricity suppliers as drivers of a competitive market for renewable energy technologies, thereby creating active demand among renewable developers. In this way, an RPS serves to establish a market-driven method for increasing and expanding the availability, and impact of renewable energy resources. This market focus changes the Commission's present approach to renewable energy by establishing a floor for active renewable resources, and creating a competitive system that will deliver these resources at the lowest possible cost.

SACE and NRDC propose that the Commission develop an RPS rule that will begin to produce a competitive market in Florida for emerging renewable energy technology immediately, and that will gradually increase the amount of renewable energy used to meet Florida's electricity demand to at least 20 percent by the year 2020. NRDC and SACE also recommend that the PSC develop a comprehensive package of complementary policies, such as interconnection standards and net metering, that will remove market barriers to renewable resources and increase the economic benefits of an RPS for Florida consumers .

Overriding Principles of Florida's Renewable Portfolio Standard

1. Strong Public Policy Foundation

In June, Governor Crist adopted three Executive Orders⁵ which, collectively, establish a framework for reducing global warming pollution in Florida. As noted above, Executive Order 07-127 specifically calls for the Commission to adopt an RPS, as a means of promoting renewable energy and as a key strategy for meeting the Governor's statewide pollution reduction goals. This policy statement dovetails with the Legislature's strong endorsement of renewable technologies as vital to the future energy policy of the state.

SACE and NRDC strongly endorse the Governor's proposal, and note that 27⁶ states have already determined an RPS is an essential policy tool for creating a robust market for renewable power and for driving down the cost of emerging technologies.

2. Emerging Competitive Renewables Market in Florida

The most significant feature of an RPS is its ability to develop a market for the sale of renewable electricity that will support the financing of new facilities. SACE and NRDC suggest that the Commission undertake an assessment of potential renewable electricity technologies available to serve load in Florida. This analysis should build on the process initiated in 2002 by the Legislature, and undertaken by the Commission, which resulted in the Commission's 2003 renewables assessment,⁷ as well as the study conducted this year by the American Council for an Energy Efficient Economy.⁸ An expanded study should provide a comprehensive assessment of the economic benefits of each type of renewable technology, in particular with respect to peak

⁵ State of Florida, Executive Office of the Governor, *Executive Orders #2007-126; #2007-127; and #2007-128*, July, 2007.

⁶ The Pew Center for Global Climate Change, *States with Renewable Portfolio Standards*, June, 2007, http://www.pewclimate.org/what_s_being_done/in_the_states/rps.cfm (27 States have implemented mandatory RPS standards, and two states, Illinois and Virginia, have implemented voluntary standards)

⁷ Florida Public Service Commission-Florida Department of Environmental Protection, *An Assessment of Renewable Electric Generating Technologies for Florida*, January, 2003.

⁸ ACEEE, *Potential for Energy Efficiency and Renewable Energy to Meet Florida's Growing Energy Demands*, (June 2007)

shaving, insulation from fluctuations in fossil fuel prices, reduced strain on the transmission and distribution system for distributed technologies, and the potential to attract new industries and jobs to the state.

These analyses can be undertaken on a parallel track with the rulemaking process, which can and should proceed on its present timetable. SACE and NRDC suggest consultation with the New Jersey Board of Public Utilities, and other states where an RPS was adopted prior to, or simultaneous with the completion of a potential study and a detailed economic analysis.

2. Economic Integration of Renewable Resources Into Florida's Energy Mix

Energy policy in Florida presents another key factor for development of an RPS. The Commission and the Legislature have each recognized a growing need for fuel diversity in electric generation,⁹ as the state's energy portfolio has become weighted dramatically in favor of natural gas generation. The Commission and its Staff have correctly noted the risk of price volatility borne in this reliance on natural gas, and sought to diversify the generation fuel mix. Renewables represent a vital source of energy, which if designed and administered for maximum dispatch, and joined with a strategy for greater use of energy efficiency, can effectively diversify the fuel mix and reduce the risks associated with fossil fuel electricity generation. Thus, one of the key objectives of the Commission's policy must be the identification and nurturing of emerging renewable technologies which feature declining costs, since an RPS and complementary policies can expedite that decline, making them cost competitive with, and ultimately cheaper than, fossil fuel plant additions.

A study conducted at Resources for the Future (RFF) in 1999 found that although both advocates and more agnostic analysts had expected the costs of renewable-based electricity

⁹ Florida Public Service Commission, *A Review of Florida Electric Utility 2006 Ten-Year Site Plans*, December 2006, *A Review of Florida Electric Utility 2005 Ten-Year Site Plans*, December, 2005.

generation to fall during the 1980s and 1990s, the declines over time, were greater than either group expected—in some cases (particularly wind), markedly so.¹⁰ With proper design of contracts under an RPS, these technologies, when combined with a portfolio policy for demand side resources, will defer new fossil fuel plant additions, or reduce existing energy needs from fossil fuel plants. This is the logical area for investments or incentive funding to bring along technologies fitting this profile.

Renewable resources can look more expensive than other supply-side technologies if the cost comparison does not consider the costs avoided in the hours the renewable resource is likely to run, or if it does not consider the renewable resource's other risk-mitigating benefits such as non-fluctuating fuel costs. Wind and solar energy both tend to be available during peak hours, which are higher-cost hours to serve. An accurate avoided cost for many renewable resources would likely be higher than the average cost for all hours. These methods also need to replace existing methods that unreasonably discount the capacity value of intermittent renewables.¹¹

This cost comparison requires a true assessment of the avoided costs of fossil fuel plants, one which accurately allocates the costs associated with carbon regulation, in the case of coal plants, and the price volatility associated with natural gas plants.¹² There is evidence that the overall operating costs of many renewable energy technologies are declining. An RPS designed to maximize the impact of these declining cost technologies will then maximize the economic efficiencies of the generation mix.

¹⁰ J. McVeigh, D. Burtraw, J. Darmstadter, and K. Palmer. 1999. *Winner, Loser or Innocent Victim: Has Renewable Energy Performed as Expected?* Washington, DC: Renewable Energy Project, March, Research Report No. 7.

¹¹ Regulatory Assistance Project, *Clean Energy Policies for Electric and Gas Utility Regulators*, January, 2005.

¹² New York State Department of Public Service, New York State Energy Research & Development Authority, *New York Renewable Portfolio Standard Cost Study Report II: Volume A*, February, 2004.

Outline of Key Issues

- Eligibility
- Structure, Size and Application of RPS
- Administration

1. Eligibility

In selecting the eligible renewable technologies, the Commission must clearly enunciate its overall policy objectives, and then match technologies to those objectives. As indicated above, SACE and NRDC propose that the overriding policy objectives of an RPS are

- To reduce the global warming pollution created by the consumption of electricity in Florida
- To expedite the decline in cost of emerging clean energy technologies that have minimal environmental and public health impacts
- To increase the percentage of renewable resources used to meet Florida's energy needs at least cost
- To diversify Florida's fuel mix, thereby reducing the risks associated with reliance on fossil fuel resources

SACE and NRDC propose that the Commission allow the following resources to qualify as renewables under the Florida RPS: solar, wind, ocean, tidal, low-impact hydro, geothermal, sustainable biomass and hydrogen derived from any of these sources. This definition is largely consistent with that adopted by the Florida Legislature.

We strongly oppose inclusion of nuclear energy which is not a renewable resource, poses numerous public health, security and environmental concerns for Floridians and is a mature technology that does not warrant subsidy. We are unaware of any RPS that interprets the terms so perversely as to include nuclear energy.

We also oppose inclusion of energy generation from the combustion of municipal solid waste. MSW incineration presently thrives as a source of alternate energy in Florida, many times under PURPA agreements. It makes economic sense to exclude such a resource from RPS eligibility if the renewable clearly does not require support to operate profitably over the long term. SACE and NRDC propose that in establishing an RPS to promote the goals as proposed, MSW is not an appropriate renewables resource to meet these objectives. MSW poses numerous public health and environmental concerns for Floridians, and is a mature technology that does not warrant subsidy.

Although several states allow MSW to qualify for support under an RPS, all relegate it to Tier II status which is set to reflect the status quo, so that the RPS will not drive investment in the development of new MSW facilities. Should the Commission decide to allow MSW to qualify for support under the RPS, it should establish a Tier II standard and set it at a level equal to or lower than the 2001 output of existing MSW facilities serving load in Florida, and that declines to one-half this level by 2012.

While SACE and NRDC strongly support policies that will remove market barriers to and promote investment in all cost-effective energy efficiency and combined heat and power, we do

not believe that an RPS is the appropriate policy mechanism to do this and therefore oppose allowing either resource to qualify as a renewable.¹⁵

2. Structure, Size and Application of RPS

a. Mandatory compliance. The RPS must be mandatory in order to achieve its goals; there is no reason to believe a voluntary target will deliver any new renewable energy to Florida, much less meet the goals that the Governor has set out for the state. As with any mandatory obligation, an RPS must include a penalty for noncompliance, which we recommend equate to 200-300 percent of the market price of renewable energy credits.

b. Compliance Schedule. The RPS should adopt the Governor's 20 percent goal as specified in the public policy statement. The proposal by the Florida Municipal Electric Association for a fixed investment in renewables is not acceptable to SACE or NRDC, most specifically because it flies in the face of the true purpose of an RPS; which is to expand the use of renewables to the greatest extent possible in the competitive market.

SACE recommends that the RPS should adopt a staggered enforcement, as done in many states, beginning with a 4 percent goal and increasing by 1.5 percent each year as follows:

¹⁵ The PUC of Texas conducted such an analysis and concluded that allowing existing resources, predominantly hydropower, to qualify for tradable renewable energy credits was not worth the increase in the cost of the RPS policy. The PUCT estimated that these costs would increase by 300 percent during the program's first compliance period if existing resources were included and the obligation was raised to accommodate them. The record reflects a dispute between parties who contended that hydro resources are at risk, and parties who contended the opposite. As a compromise, and considering the state's RPS legislation that referred to a cumulative renewables capacity target that included existing resources, the PUC decided to allow existing resources to offset the obligation of retailers who own or contract for those resources, while raising the obligation for new resources on all other retailers. The offset is not tradable. (Texas Substantive Rule, 1999)

<u>Year</u>	<u>Goal Enforced</u>
2009-2011	4%
2012	5.5%
2013	7%
2014	8.5%
2015	10%
2016	11.5%
2017	13%
2018	17%
2019	19%
2020	20%

The Commission's 2003 renewable study reported that in 2000, the renewable technologies then specified in statute totaled approximately 3 percent of the state's net generation. This generation total consisted primarily of municipal solid waste (MSW), biomass materials (primarily agricultural waste and wood residues), waste heat, and a small contingent of hydro-electric generation. Virtually all of these resources were of 1980 or early 1990s vintage. The study did not project potential generation potential for newer renewable technologies, nor did it address the potential for greater efficiencies in existing technologies, or the potential generation from non-Florida based technologies.

The initial RPS requirement must take effect far enough in the future to allow for market entry of these newer technologies. This ensures competition among all types of eligible renewable resources that are reasonably considered to be in competition with one another, as opposed to the 1980 vintage technologies found in the Commission's report. For this reason, Florida's RPS should commence on January 1, 2009.

The predictable, fixed ramp-up schedule of 1.5% a year provides a steadily growing market for renewable energy which, in turn, promotes industry development, technology

advancement, and cost reductions. In addition, a stable rate of increase will prevent "boom and bust" cycles in the renewables industries.¹⁶

c. Obligated Retail Providers. The RPS should obligate all providers of retail electric service in the state to meet its goals. Only a comprehensive statewide program will meet the Governor's 20% goal. This promotes a diverse, active and dispersed competitive renewables market. Retail sellers clearly fall under the state's jurisdiction. In addition, such an approach most appropriately distributes the cost and benefits of the development of a robust renewables market and minimizes entry barriers in the competitive market. These add up to substantial enhancement in the economic efficiency of retail customer shopping decisions.

d. Structure. Structured tiers are often used in an RPS to accommodate competing public policy objectives, to provide strategic directives among competing technologies, or to direct incentives to emerging technologies. As discussed in the eligibility discussion, the RPS should be structured with a Tier I for solar, wind, ocean, tidal, low-impact hydro, geothermal, sustainable biomass and hydrogen derived from any of these sources. We do not support inclusion of MSW but if the Commission decides to include it it should do so through a Tier II provision set at a level equal to or lower than the 2001 output of existing MSW facilities serving load in Florida, and that declines to one-half this level by 2012.

e. Solar carve-out. Governor Crist has distinguished wind and solar technologies for having strong potential in an RPS. SACE and NRDC endorse this policy choice by the Governor because they both demonstrate the key features needed in a competitive renewables

¹⁶ Hempling, Rader, The Renewables Portfolio Standard, *supra*, note 4.

markets; they each are experiencing declining development and operational costs, and expanded market acceptance.

Demand for photovoltaic (“PV”) solar is being driven by policies that reduce the cost of solar systems, increase the revenue for solar operators, and ease solar installation. New Jersey is one state among many now placing extensive focus on solar for this reason. Germany has also used legislation effectively, and now installs over one gigawatt of PV annually. In Florida, it is projected that a 2% solar goal would result in the installation of 4 Gigawatts of solar power by 2020. This capacity would largely come in the form of distributed generation on new and existing building structures, such as rooftops.¹⁷

Thus, SACE and NRDC endorse the proposal of a 4% carve-out for solar in the RPS, consisting of 2% PV and 2% thermal. The concept of a revenue-based cap on solar expenditures is reasonable, however, this cap should be designed primarily to expand market offerings and bring economic efficiencies of solar to the renewables market with all deliberate speed.

f. Energy Efficiency Performance Standard. Energy efficiency resources generally impact the state’s electricity mix by reducing demand for electricity rather than providing additional supply. They are a vital and valuable resource in addressing the state’s energy needs. However, it is not anticipated that energy efficiency resources (“EE”) would be a part of a competitive market for renewable technologies, which generally are supply options. Though renewable technologies have strong synergies with EE, the differences in their deployment and economic models suggest different mechanisms to promote them in the states energy mix.

¹⁷ The Vote Solar Initiative, Putting the Sun in the Sunshine State: Developing a World Class Solar Industry in Florida, August, 2007.

SACE and NRDC propose the adoption of an energy efficiency performance standard, alternatively referred to as an energy efficiency portfolio standard (“EEPS”). An EEPS requires electricity service providers to meet a portion of their annual increase in electricity demand through energy efficiency measures. This type of policy treats energy efficiency as an invisible power plant and requires that a set percentage of new electricity come from this source.

The EEPS essentially sets a goal for energy savings and requires that utilities meet that goal. The EEPS is *performance-based*—it sets a goal for energy savings and requires that utilities meet that goal. This characteristic is attractive to lawmakers interested in funding results-oriented energy efficiency efforts. The EEPS can be increased or decreased over time.

It is especially appropriate that an EEPS be considered in conjunction with the enactment of an RPS. Like the RPS, an EEPS will stimulate demand for EE technologies and foster a more active deployment. Also, like an RPS, the technologies delivered to the consuming public will likely bring lower cost energy into the energy mix. As discussed herein, the EEPS will work in conjunction with an RPS to more effectively integrate economic, clean supply resources, and economic clean demand side resources into the state’s energy mix, and thus defer deployment of new fossil fuel plant.

In making this proposal, SACE and NRDC acknowledge the existence of a formidable barrier to the viability of an EEPS; namely the Commission’s present policy on measuring the cost effectiveness of EE resources. The Rate Impact Measure Test (“RIM”) is a substantial impediment to the expansion of EE resources in Florida. Florida is the lone state among the those states active in deploying EE, to still employ the RIM test. SACE and NRDC therefore propose that the Commission undertake a policy review of the RIM and its impact on the EEPS.

3. Trading Compliance

In shaping the RPS obligation, states could require each retail seller to generate electricity from its own renewable energy facilities or purchase electricity from a renewable facility owned by others. Alternatively, the state could require each retailer to acquire tradable renewable energy credits (“TREC) that represent the production of electricity from renewable facilities. The Commission has broached this issued in Rule 25-17.280, Florida Administrative Code, which specifies ownership of TRECs in the standard offer contract setting. SACE and NRDC recommend that the Commission request development of proprietary software to operate a TRECs program for the RPS and establish a task force to organize the infrastructure and procedure for the trading of TRECs in Florida.

4. Administration

i. *Regulatory Oversight.* SACE and NRDC propose that the Commission provide regulatory oversight of the RPS, essentially for certification and compliance requirements.

ii. *Compliance Verification.* SACE and NRDC propose further that information technology be specifically developed to facilitate fiscal administration of the RPS, and that the operation of this technology be assigned to an independent organization, perhaps the Florida Reliability Coordinating Council. In addition, SACE and NRDC propose that the RPS include compliance flexibility provisions that include: (1) annual accounting periods; (2) a three-month true-up period; (3) banking of renewable credits; and (4) force majeure exemptions.

Need and Recommendation for a Potential Study

The Legislature in 2002 directed the Commission, in collaboration with the Florida Department of Environmental Protection to conduct a study to assess the feasibility and potential of renewable energy in Florida, in anticipation of developing public policy positions.¹⁸ As a result of its detailed study of renewables, the Commission highlighted the need for clear and precise baseline data, and clear strategic direction if implementation of an RPS is to be successful.¹⁹ Further, in its agency long-range plan, the Commission's planning regarding renewable energy is characterized as follows:

“The Commission is also developing more comprehensive information on the availability and cost-effectiveness of renewable resources in the state. Only when we better understand the available options can we proactively require additional activity on the part of utilities.”²⁰

The Commission, in its own words, recognizes the need for a comprehensive, strategic analysis of potential renewable technologies to inform the development and implementation of an RPS. In order to expedite the current rulemaking process and remain true to this standard, SACE and NRDC propose that the Commission utilize the comprehensive June, 2007 report of the American Council for an Energy Efficient Economy²¹ as a potential study in transition, while it authorizes a new potential study to be completed within 12 months.

Florida Public Service Commission's Jurisdiction to Establish a Renewable Portfolio Standard

¹⁸ Chapter 2002-276, Laws of Florida, HB 1601/SB1142.

¹⁹ Florida Public Service Commission-Florida Department of Environmental Protection, *An Assessment of Renewable Electric Generating Technologies for Florida*, January, 2003.

²⁰ Florida Public Service Commission, *Long-Range Program Plan: Fiscal Year 2007-08 through 2011-12*, September, 2006, at 8.

²¹ N. Elliott, et. al., *Potential for Energy Efficiency and Renewable Energy to Meet Florida's Growing Energy Demand*, ACEEE Report No. E072, June, 2007.

There is clear statutory authority supporting the Commission's establishment of an RPS.²² The fact that this action is initiated without express legislative initiative in no way diminishes that authority. While most of the RPS policies around the nation were established via express legislative statements, the policies in Arizona, New Mexico, and Pennsylvania were established through regulation (AZ and NM) or multi-party regulatory settlement (PA).

Respectfully re-submitted this 28th day of September, 2007.

Southern Alliance for Clean Energy
Natural Resources Defense Council

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²² See Sections 366.041(1); 366.91; and 366.92 , Florida Statutes