



October 15, 2007

Ann Cole, Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399

Dear Ms. Cole:

On behalf of the Integrated Waste Services Association (IWSA), I submit the following comments with respect to the Florida Public Service Commission's Renewable Portfolio Standard Workshop. IWSA is the national trade association representing the nation's waste-to-energy industry and municipalities. Waste-to-energy facilities produce clean, renewable energy through the combustion of municipal solid waste in specially designed power plants equipped with the most modern pollution control equipment to clean emissions. Trash volume is reduced by 90% and the remaining residue is safely reused or disposed in landfills. There are 87 waste-to-energy plants operating in 25 states managing about 8 percent of America's trash, or about 95,000 tons each day. Waste-to-energy generates about 2,700 megawatts of electricity to meet the power needs of nearly 2.3 million homes while serving the trash disposal needs of more than 36 million people. In Florida, there are 11 waste-to-energy plants managing more than 18,000 tons of trash each day. Florida's waste-to-energy plants generate approximately 514 megawatts of clean, renewable electricity to local communities.

In response to the questions distributed by the Florida Public Service Commission (PSC) Staff at the September 27, 2007 RPS Workshop, IWSA provides the following on behalf of the companies and municipalities engaged in waste-to-energy.

Q. Which verification methodology should be used in an RPS regime?

- 1) Contract path?**
- 2) Renewable Energy Credits (RECs)?**
- 3) Utility ownership of renewable facility?**

A. Almost every RPS program in the United States uses Renewable Energy Credits (RECs)¹, a method of tracking and ensuring that all parties are performing as desired in an RPS regime. The REC system has a number of major advantages over other potential methodologies of tracking compliance. RECs are a transparent, fungible commodity which can be easily tracked, and are of standard design. This facilitates the trading of RECs and the establishment of a transparent tracking system for compliance. The ability to trade RECs produces unique benefits

¹ At the September 27, 2007 RPS Workshop at the PSC offices, it was suggested that Florida might be the "first regulated state" to develop an RPS system. In fact, IWSA is aware of at least five "regulated" states, VA, HI, IA, MN, and NV, with an RPS system, in addition to at least half a dozen "deregulated" states using an RPS system.

not found in other systems such as “contract path.” The ability to trade RECs provides a transparent and easily valued reward of standard design, for those who are producing or purchasing renewable electricity. The existence of RECs enables purchasers to obtain the RECs needed for compliance from a variety of sources if necessary, since all Florida RECs will be of standard design. Additionally, the use of RECs of a standard design, enables all Florida industry participants and observers to easily understand reporting of activity within the Florida RPS regime.

The contract path system, on the other hand, is a system which has almost none of these advantages. Bi-lateral contracts are not easily fungible, and do not lend themselves to a commodity trading atmosphere. Contracts between Party A and Party B are not by definition “tradable” to party C for use between Party C and D. In fact, it is likely that under a contract path system, a parallel system of standard unit measure will need to be created to ensure that the contracts for renewable power are meeting the required thresholds for compliance. Each contract would need to be closely monitored and evaluated to ensure compliance with an RPS. This would likely require in effect, a measurement system similar to RECs in any event. It would be easier to simply create a REC system, as so many other states have. The REC system has a proven track record of success and popularity, having been implemented successfully in many states.

The third alternative above, for tracking compliance, is having utility ownership of renewable facilities. While IWSA does not oppose utility ownership of renewable facilities, it would not support any limitation or restriction that would prevent other entities from owning and operating renewable energy facilities. A restriction to utility ownership of renewable facilities obviously does not incent independent renewable development, and could stunt the development of a vibrant market for trading RECs. On the other hand, by using a standard REC system, utilities can earn RECs simply by building their own facilities, while still allowing REC-based incentives for independent development of renewable facilities.

Once a verification methodology is chosen, how to make it work:

Q. Should there be a safety valve, such as an alternative compliance payment (ACP)?

A. Yes, an ACP is a commonly used method to ensure compliance in the event there is a shortage of renewable resources. A properly functioning RPS program sets annual renewable requirements above the level currently available, in order to spur development of new renewable energy sources. Having an option to make an ACP should there not be enough in-state renewables available, particularly at the beginning of the RPS program, is a sound policy that should be pursued. The initial value of the ACP must be initially set high enough (per megawatt hour), to ensure that IOUs purchase RECs from existing renewable resources, and there is an incentive for IOUs to seek out new in-state renewable energy projects.

Q. How should ACP Payments be handled?

A. Consideration should be given to having ACP payments flow into a Renewable Energy Fund administrated by the State or the PSC. These funds could be used to spur investment in

renewable power development, and/or contribute to cost of administering the RPS program. The PSC should be responsible for administration of ACP funds. It must be clear that the monies collected under the ACP can only be used to support the development of more in-state renewable energy production, from new or existing projects.

Q. Should Investor Owned Utilities (IOUs) receive recovery for ACP payments?

A. Yes, *within limits of prudency reviews. The prudency review is critical.* This ensures that when RECs are available, IOUs are incented through the prudency process to pay for the REC when available, thus stimulating demand for renewable power. Prudency review is needed to ensure a vibrant market for RECs exists and that an ACP payment when RECs are reasonably available is discouraged. Put simply, failure to purchase RECs when available will reduce demand for RECs and defeat the goal of incenting development of renewable power. Therefore, purchase of RECs by an IOU needs to be defined as prudent in the RPS program, and failure of an IOU to purchase RECs *when reasonably available* must conversely be defined in the RPS program as imprudent. Alternatively, the RPS program could be set up in such a way as to simply state that ACP payments made when RECs were reasonably available are simply not recoverable by the IOU.

It is important for the PSC to understand if any ACP payments have been made during a period when RECs were available for purchase by an IOU. In order to make this determination, part of the administrative monitoring function must be able to track and link the availability of RECs with ACP payments made by IOUs. Only in this way, when the availability of RECs are reviewed in conjunction with ACP payments at particular points in time, will the PSC be able to determine if an ACP payment was made properly.

Q. Who administers verification of compliance--state agency or third party?

A. As a matter of sound public policy, it is clear that entities subject to enforcement penalties in an RPS regime, should not be the same entities tracking and determining if an entity is in compliance. In an RPS regime, load serving entities or IOUs will have requirements to purchase a certain amount of RECs in order to be in compliance. Therefore, there needs to be a central “clearinghouse” which manages the inventory of RECs. IWSA recommends that the PSC handle this function as it is the appropriate regulatory body to do so. The PSC will likely need to use data obtained from FRCC in order to determine how much retail sales (in Megawatt-hours) each responsible party serves, and therefore an accurate determination of how much RECs each responsible party needs to purchase.

Alternatively, the PSC can create or contract with a third party which is responsible directly to the PSC, to handle the administration of compliance. This third party methodology is currently used successfully in the New England ISO and PJM.

All reporting of RPS compliance activities, such as the purchase of RECs and the payment of compliance payments, when necessary, should be done in a public fashion, to allow observers to be able to track each party’s compliance with the RPS mandates. Reporting of REC and ACP activity by each party can be posted on the Web by PSC or the third party administrator.

It is important for the PSC to understand if any ACP payments have been made during a period when RECs were available to an IOU (see answer on IOU cost recovery above). In order to make this determination, part of the administrative monitoring function must be able to track the timeframe of available RECs with the ACP payments made by IOUs. Only in this way will the PSC be able to determine if an ACP payment was made improperly.

Q. Should there be a weighting system based on objectives? Should there be a multiplier or tiered approach?

A. IWSA strongly supports an RPS system which achieves the public policy goals contained in Florida statute cited below:

366.92 Florida renewable energy policy.--

(1) 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; lessen Florida's dependence on natural gas and fuel oil for the production of electricity; 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.

(2) For the purposes of this section, "Florida **renewable** energy resources" shall mean **renewable** energy, as defined in s. [377.803](#), that is produced in Florida.

(3) The commission may adopt appropriate goals for increasing the use of existing, expanded, and new Florida **renewable** energy resources. The commission may change the goals. The commission may review and reestablish the goals at least once every 5 years.

(4) The commission may adopt rules to administer and implement the provisions of this section.

History.--s. 18, ch. 2006-230.

These policy goals in sum:

1. Incent continued operation of existing renewable power facilities
2. Promote the development of new renewable power facilities

The simplest way to achieve these goals can be accomplished through a “three tier” system with “tiers” as follows:

- Tier 1. Existing renewable sources
- Tier 2. New solar and wind sources
- Tier 3. New renewable sources, as defined in the statute.

Load serving entities in Florida would be required to purchase a set percentage of their load from each of these tiers. The level of Tier 1 should be set at the percentage of total Florida electric sales provided by existing renewable resources, as defined in the statute, at the time of implementation of the RPS Rule. Furthermore, to meet the above mentioned goals, it is essential that load serving entities that fail to comply with the requirements for any tier pay the same ACP payment.

There can be no crediting from one tier to another, as this would dilute the incentive for any tiers which are “shared.” and defeat the purpose of separate tiers. This system eliminates controversy surrounding “multipliers” for certain fuel types, and eliminates allegations of discrimination in favor of certain fuel types, while still ensuring desired incentives for specific fuel types.

Q. Should self-service generation be counted toward goals?

A. Yes. This provides the proper incentive for entities to produce their own power.

RPS Compliance---Issues that are specific to RECs:

Q. Should out-of-state RECs be counted?

A. No out of state or regional RECs should be allowed. Similarly, it is not enough to simply require that renewable energy be delivered to Florida. Allowing any out of state RECs to be counted toward meeting a Florida RPS goal would lessen or dilute incentives for new and existing Florida sites and renewable resources and not promote Florida renewable energy. Similarly, it is important that out of state RECs be prohibited in order to afford Florida with the inherent benefits of clean renewable energy. .

Q. What coordination is necessary to prevent double counting?

A. See answer above on administration of REC program

RPS Enforcement:

Q. How often should utilities’ performance in complying with the RPS requirements be reviewed?

A. Utilities’ performance in complying with the RPS should be reviewed annually, by PSC, or more frequently if a particular circumstance, such as evidence of non-compliance, warrants it. The prudence of any IOUs ACP payments should be evaluated on an annual basis, presumably at the same time as other prudence reviews of IOU cost recovery

Q. What is the best way to ensure compliance with the mandates of the RPS program?

A. See answer above.

Q. Should there be force majeure exceptions from RPS targets?

A. No, there should be no force majeure exceptions from *RPS targets*. However, in the event of a force majeure, the IOUs should be able to be exempted *only from the REC purchase requirements*. For the duration of the force majeure, IOUs should be permitted to make ACP payments without threat of any imprudence penalty from the PSC. This is because the ACP payment enables load serving entities to comply with the RPS requirements, even if there is a shortage of renewable resources due to force majeure condition. Proceeds from the ACP payment could be used to eliminate or mitigate the force majeure condition and ensure the development of enough renewable plants in the state to meet the RPS goals.

Additionally, this exemption should be subject to confirmation of the event in question as a “force majeure” event, and PSC oversight/review of the exemption/circumstance/event.

Other Questions:

Q. Should a baseline be established of current renewable resources?

A. Yes, a baseline should be established of current renewable resources. This baseline will also be important when policymakers and the public wish to see how well the RPS program has done in incenting renewable development in Florida. Additionally, the baseline will need to be done in order to calculate the threshold for the “Tier 1” of existing renewable resources, mentioned above.

Q. What facilities would count towards the baseline?

A. Pursuant to Florida Statutes 366.91(2)(b), and 366.92(2), all renewable energy produced in the State of Florida should be counted towards the baseline.

Q. What reporting requirements are needed?

A. Utilities would be required to report quantities of renewables purchased (in megawatt-hours), and ACP payments made to the PSC and/or third party administering the program. These reported quantities need to be audited annually as part of the annual review process referred to above. This reporting should include documentation to support any decisions to make ACP payments in lieu of purchasing RECs as discussed in detail above.

Conclusion

In closing, IWSA would like to remind the PSC of the two key statutory goals set forth in section 366.92(1) as it considers implementing a RPS in Florida:

1. Incent continued operation of existing renewable power facilities
2. Promote the development of new renewable power facilities

Waste-to-energy technology is critical to achieving the goals of an RPS program. IWSA and its members welcome the opportunity to work further with the Florida PSC on this important policy matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Ted Michaels". The signature is written in a cursive style with a large, sweeping flourish at the end.

Ted Michaels
President