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RPS RULE POST WORKSHOP COMMENTS

Time constraints between the July 11 workshop and the comments due date have foreclosed the opportunity to have these comments approved by the industrial and large commercial companies that participate in FIPUG. They represent the observations of the undersigned based upon his understanding of the factors that affect and motivate large industrial and commercial electric consumers in Florida.

The July 11 workshop was the kick off for the Rule the FI PSC must submit for legislative consideration by February 1, 2009 in response to the mandate set out in § 366.92(3) *Florida Statutes*.

The Commission should be well positioned to begin this work because it has been seriously studying the RPS concept since January 2007. There have been 5 workshops on the issue with active participation from stakeholders followed up with an omnibus report prepared by the Commission staff in March 2008 summarizing the workshop presentations and analyzing the relevant laws enacted in other states. All of this activity occurred before HB 7135 became law as Chapter 227 Laws of Florida 2008 when Governor Crist signed the bill at his June 25th climate conference. The Commission immediately responded to the new law with the July 11th workshop which will be followed with an aggressive schedule for rule adoption.

In addition to the RPS activity the Commission conducted energy efficiency workshops in November 2007 and April 2008. The concepts of energy from renewable sources and energy efficiency are inexorably linked to the national energy policy and long stated Florida Energy Policy to “lessen dependence on natural gas and fuel oil for the production of electricity” and to “minimize the costs of power supply to electric utilities and their customers.” On numerous occasions during the RPS meetings municipal and investor owned utilities as well as other stakeholders proposed that RPS include energy efficiency and conservation. §366.81 *Florida Statute*, which was also amended by the new law, reenacts legislative findings and intent and continues to emphasize “Reduction in, and control of, the growth rates of electric consumption” and “conservation of electric energy and natural gas usage.” These imperatives should not be overlooked in the forthcoming report to the legislature because energy efficiency may well be the first viable major step that can be taken when the commission evaluates current and forecasted cost of electricity as it is required to do by §366.92(3)(a) *Florida Statutes* in conjunction with locating and forecasting renewable energy generation. The idea of emphasizing the importance of energy efficiency was promoted during workshops by Bill Ashburn, Schef Wright, and Kim Owen and others. Deputy Public Counsel, Charlie Beck, suggested that we see how far we can go without raising rates. Energy efficiency is of paramount importance in the short run but it will only be beneficial to customers and the utilities if steps can be taken to insure that conservation saves money rather than increasing customer bills.

These comments are not intended to fully assert the positions of large users. They only mention four basic factors that the Commission should consider from the outset when it begins to frame the very important RPS rule. These are over riding factors that must be dealt with to achieve success.

FOUR BASIC OBSERVATIONS

I. **FLORIDA CONSUMERS CAN ILL AFFORD HIGHER COSTS:** According to data filed with the Energy Information Agency of the DOE the average Florida resident's monthly residential electric bill is already among the highest in the nation. On June 28th Asjlyn Loder of the St Petersburg Times reported,

“Tampa Electric issued 321,835 disconnect warnings in February, March and April, up 27 percent from the same period last year, said utility spokesman Rick Morera. The number includes commercial and residential customers, and customers who have received multiple notices. Not all of those customers have actually had power turned off, he said.” [ed note TECo has 667,000 customers according to its web page. The article alleges an exceedingly high number of disconnect notices. The article may well be in error. The facts have not been independently verified, but there is no doubt about the current impact of electric rates on existing customers. If the article is correct the facts cannot be ignored]

“Through the end of May, Progress Energy cut off power to 110,500 customers, up from 95,500 in the same period last year, said spokeswoman Cherie Jacobs. Some are abandoned investor properties, but others are families that are short of cash.”

This is a problem that cannot be ignored if the Fl PSC begins to consider RPS designed to raise prices even further.

II. **FPL AND PEF RECENTLY PROVIDED APPALLING INFORMATION DEMONSTRATING THAT EXISTING CONSERVATION PROGRAMS DON'T REDUCE COSTS.** On June 3, 2008 FPL filed its petition to increase its fuel charge in Docket 080001-EI. The petition said in part;

“11. The \$329,450,601 (5.4%) decrease in Jurisdictional Fuel Revenues is primarily due to lower than originally projected jurisdictional sales, which are now based on actuals through April 2008 and revised projections for May through December 2008. The current projection is for jurisdictional sales to be 5,697,643,867 kWh, 5.1% lower than the original projection (page 6, line B3).”

There is no dispute that the fuel cost recovery clause designed to recover volatile fuel cost, is not limited to fuel cost alone. Non volatile fixed costs and utility profits on investment in fuel handling infrastructure are also collected through the clause. As with the TECo article above the fixed cost component in base rates has not yet been verified through discovery, but if the entire \$329 million relates to non volatile costs and investment return every Mwh saved by one customer costs other customers \$57.82.

The magnitude of the non fuel component included in the fuel charge has never been seriously investigated, but it is startling in its potential significance. It means that all energy

efficiency programs designed to reduce consumption growth appear to have no chance for success. They are not cost effective unless sales growth continues to outpace conservation.

Dr. Paul Sotkiewicz, the Director of Energy Studies from the University of Florida's Public Utility Research Center, explained how this anomaly can be cured without raising rates at the November 29, 2007 energy efficiency workshop. Others recommend rewarding the utilities with a decoupling rate increase. Most customers would favor Dr Sotkiewicz approach.

III. NEITHER RPS NOR ENERGY EFFICIENCY WILL SUCCEED UNTIL THE INVESTOR OWNED ELECTRIC UTILITY BUSINESS MODEL IS MODIFIED.

For over 100 years the electric utility business model has been based upon three basic principles:

1. Obtain an exclusive franchise; 2. Provide service from a central power plant. 3. Sell more energy after base rates are set. This business model is inapposite to buying power from independent renewable sources or encouraging energy efficiency. §366.92(2) (b) defines "Provider" of renewable programs by reference to another section of the Florida Statutes. When that section is examined you discover that the "provider" of RPS as not an independent entity, but rather an investor owned electric utility. RPS programs to be developed under the proposed rule will have to make it clear that the investor owned utility as a "provider" does not mean that it is the exclusive supplier of RPS, but only the conduit for acquiring RECs or RPS in the public interest. Utilities' "avoided cost" of supplying power from existing or new central power plant(s) should continue to be a useful criterion for evaluating RECs and RPS in the new rule as long as reasonable allowances are made for favorable environmental attributes and fuel diversification and the renewable resource selection is heavily weighted to the most cost effective unit regardless of whether this facility is owned by a utility company.

IV. AARP's MIKE TWOMEY RECOMMENDS RPS COMPETITION OR "MERCANTILE ENVIRONMENTALISM" IN THE LEXICON OF OTHER EXPERTS: The following is excerpted from the staff's omnibus summary:

Mike Twomey, speaking on behalf of ratepayers, explained that consumers of electricity in the state are interested in seeing utilities provide the least cost service possible. And if GHGs are to be reduced by paying above avoided cost, policymakers should look for opportunities to get the most out of consumer dollars by concentrating on the least cost options first. The least cost option (for example, biomass) for meeting policy goals should be selected first. The entire goal (or budget) should be met with this least cost resource if sufficient capacity can be developed. If not, policymakers should then look toward the next least cost resource. He argued that tiers are not needed, but instead competition. There should be head-to-head competition among suppliers, and the ones that are the most effective in producing power at the least cost should get the contracts.

On Sunday July 13th, Vijay Vaitheeswaran, a professor, economist, mechanical engineer and author of the recent best seller *Zoom: The Global Race to Fuel The Car of The Future*, spoke to the national governors' conference section on energy issues. He recommended breaking down the barriers to RPS entry. He opposed selecting a specific technology to solve the energy problems. He promoted liberalization of markets, bottom up environmentalism and the confluence of technology. He would recommend framing a rule so that independent technology providers who work out of their garages like Messrs Hewlett, Packard, Gates, Jobs and the founders of Google will come to the Commission with competitively based technology. He pointed out that the utilities' own research body, EPRI,

acknowledges that utilities have spent less than 1% of their resources on innovation in the last few years. Other innovators have already come in force to display their wares and ideas during the 2007-2008 workshops. Let them know that set asides, tiers and multipliers for new technology to jack up the price of electricity are not considered to be in the public interest in Florida. Make “marketplace environmentalism” the center piece of the new rule. This competitive approach may offend the old investor owned utility business model, but today Florida utilities are in tune with the world condition and understand the need for dramatic new ideas that will not only save energy, but will save their customers and ultimately save their companies. The shackles of the 100 year old business model must be removed by the new rule if we are to achieve success.

Respectfully submitted

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