BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Rule Development proceedings re	)	
Proposed Renewable Portfolio Standard	)	Docket No. 080503-EI
Rules 25-17.400; 17-410 and,		)
17-420 F.A.C	)	Dated: September 5, 2008
_____	)	(due-date extended by PSC)

CCLLC COMMENTS WITH RESPECT TO PROPOSED RPS RULES

COB Creations, LLC, a renewable energy technology vendor, through its CEO, has attended and participated in workshops on Energy Efficiency and Renewable Energy hosted by the Commission. COB has been actively involved in shepherding renewable energy proposals throughout the state of Florida for more than two years. These proposals included presenting investors directly to BOCC and Chamber of Commerce meetings in political sub-divisions to make them aware of offers to underwrite renewable energy facilities in the state of Florida. Every political sub-division was made fully aware that not a single tax dollar would be required to obtain the $50 million dollar facilities that would convert their communities to clean energy, remediate landfill waste that must no longer be put near the water table for the safety of the people, provide new industry for the local population and even offer an operatorship revenue-stream if so desired by the public utility. No less than five political sub-divisions have full proposals, which they refuse to answer in any way, shape or form, thus choosing to make their decisions by omission so that there is no public record of their refusal to accept out-of-state renewable energy investment. A portion of our intellectual property is contributed by Los Alamos National Laboratory, the most respected "combustion" laboratory in our country. However, not one representative from Florida, including the DEP environmental engineers who committed to do so, actually did call or accept invitations to attend multi-state phone conferences with the world-respected physicists to confirm, as by due diligence research from these respected third party experts, our Zero Emissions technology.

Your state is violently and with insult refusing renewable energy investors and thus renewable energy technologies; your political sub-divisions are in collusion with your IOUs.

COB also made the PSC aware of the previous performance of Southern Company which in 2006 fully ASTM tested our Process Engineered Fuel. The results showed a stunning, clean near-zero emissions energy product which we offered at BTU-pricing (in order to be exactly equal to the $/BTU of coal). Via Tom Johnson (one of Southern's contacts on *your* Energy Efficiency and Renewable Energy conference contact list) Southern Company would not agree to provide even a contingent contract while via Southern's leadership later paid millions of dollars to scuttle the federal RPS on the grounds that it was "not affordable." Is there any reasonable explanation that they

should state that paying exactly the same for clean energy is “not affordable,” except to preserve their ability to speculate with their currently non-transparent practices?

Notwithstanding all our efforts, the political entities of Florida have, by their own admission, entirely fought any investment into renewable energy facilities in the whole state. The staff of one assistant county commissioner admitted to intersecting and removing all our communications to the BOCC, other staffers have admitted calling all recipients of communications to nix our investment proposals. Politicians have simultaneously pushed publicly for the RPS legislation that appears to be designed to have one purpose- to transfer the public money to the utilities in order to buy the renewable energy capital equipment, so that the public should fund the utilities’ new revenue streams at the public expense all under the guise of “converting to renewable.” I deduce this because so many political sub-divisions have refused to allow *investors* to pay for the renewable energy conversion. The second purpose might be to limit the amount of renewable energy that is allowed into the state, mandating that utilities need accept *only* the small percentages so that they can continue for as long as possible to benefit from prices that have been rising due to energy product speculation which have in turn been raising electricity prices (via the BTU-all-in calculation). For as long as the FL IOUs can remain connected to fuels that are “speculatable” the FL IOUs can continue to charge the highest prices to rate-payers. When the energy is entirely RPS converted, the FL IOUs will not be able to make the claim that the sun, wind or MSW have gone *up in price*. Speculation will be impossible, to the utilities’ investors’ chagrin.

I have challenged the Florida PSC to write the first fair RPS Rule in the United States. To that end, I have re-written your strawman to comport with fair policy and mindfulness of the public. The original version gave all advantage to the utilities (and all disadvantage to the rate-payers) which rate-payers I am certain have not been acquainted with the many offers to finance renewable energy in this state *without* their money.

This RPS Rule modification which I have written is the path that takes no dollars from the people, and holds the rates to market, the only equitable solution. When rates are held to the market, the people will know they can afford it.

- **ALL NOTIONS OF RPS% FAILURE FEES AND PERCENTAGE REQUIREMENTS MUST BE REMOVED. THE UTILITY CANNOT HAVE ANY PUNISHMENT ASSESSED WHERE NO RPS ENERGY WAS MADE.**

It is my opinion that utilities are justified in their objection to RPS thresholds. Let all fees for failing to meet any threshold be removed. This eliminates discussions of multipliers, preference and tiers are only recognized by the attribute of requiring or not-requiring an Air Permit. When all energy is renewable, the electricity rates will decrease further and further as facilities satisfy debt and technology advances coupled with zero fuel costs, making Florida residents richer/increasing wages by counter-inflation of the “raw material” we call energy.

- **THE RPS ENERGY SOURCES SHALL NOT BE LIMITED. THERE SHALL BE NO % LIMIT AT WHICH AN IOU MAY “CAP” RENEWABLE ENERGY, UNTIL ALL ENERGY IN FLORIDA IS RENEWABLE.**

By this rule, the only actual RPS requirement is the order of energy in the queue: Energy made from RPS sources without any Air Permit requirement (Tier 1) to be placed into transmission prior to RPS energy made requiring an Air Permit (Tier 2) and all pollution-based non-renewable energy to follow that, until entirely replaced. This is simply a "green-priority" RPS.

- **ENTIRELY REMOVE THE ABILITY OF ANY UTILITY TO CONTINUE TO PREVENT THE FINANCING OF RENEWABLE ENERGY FACILITIES THROUGH THEIR INSISTANCE ON UN-BANKABLE PPAs.**

"Bankable" can have several meanings. The meaning of "bankable" from one unknown speaker in the RPS meetings concerned the RECs in Florida, and used "bankable" applied to RECs to mean "money forwarded as cash into a financing structure (equity) rather than as debt" which might also be known as "tax-credit monetization." This is not the customary use of "bankable" in finance.

A "bankable contract" or derivative contract is a futures contract agreement to purchase commodities that is "benchmarked" on both ends (producer's price to buyer's price) and periodically marked to the market. This is the only kind of contract our government recognizes as sound in facility financing. I have included with my comment-submission the actual description as provided by the US Treasury Office of the Controller of the Currency in letter #1051. The current contracts posted at the PSC by the utilities are unbankable in that they do not tie the price earned by the power producer to the price paid by the rate-payer; they only agree on price between the producer and the *utility* (who is not the consumer). The contract is deliberately faux- the utilities certainly minutely track the revenue sources from each kwh but they do not transparently pass through "rate."

The STANDARD Utility OFFER CONTRACTS (and modified renewable offer contracts currently on file with the PSC) are not benchmarked, and not marked to market, and don't even pretend to do this. Rather, the language in them marks the price paid to the renewable power generator to a price that the *utility* buys it at, entirely obscuring the market from the interaction. This is why an IOU can pay a power generator $.07 kwh but could charge the rate-payer $.11 kwh or even $.20 kwh or $.30 kwh or more. Without tying the prices together the **IOUs are empowered to inflate the energy price in a manner invisible to the public** and has been doing so. The renewable energy providers have no recourse and could not even defend themselves against the IOUs as RECs (bought by the IOUs) necessarily transfer all media rights. Utilities could cry that renewables are staggeringly expensive and raise prices to the rate-payers while forcing renewables by competition to be paid *less and less* from the utilities. By the reading of this RPS strawman that appears to be the intention.

I am fully aware that we are requesting revolutionary changes. Back in the 1980s, independent natural gas operators noticed that the utilities were charging a 40x remarketing price (or in other words a forty-fold increase in the price sold at market from the price sold from the independents, which is what happens when prices are not marked to the market!!) Naturally, the independent natural gas operators wanted to re-negotiate.

The pursuit of financial transparency was afoot. The utilities made a defensive move, informing all independent natural gas operators that their Take or Pay contracts would

not be honored. A federal judge ruled on a class-action basis against the utilities and refineries granting Open Access to the interstate pipeline pursuant to FERC order 488. The judge ruled that the pipelines only allowed to utilities to charge a transmission tariff, not prohibit use of the pipeline. The utilities countered that any end user or commercial or industrial buyer wishing to purchase natural gas from the independent producers must provide a *ten year advance* notice, effectively routing the judge's fair ruling in favor of utilities in order to destroy the competition from the independents who were demanding transparency. More disgraceful, in certain instances pipelines were suddenly condemned to stop open access (El Paso natural gas), bankrupt the independent operations (by which they secured their monopoly again) and without scrutiny or competition they raised prices.

To my knowledge, no independent or renewable energy operator has ever achieved a bankable contract with a utility and no PSC has yet prevailed against them.

Failure to require OCC #1051-compliant bankable contracts has had the following effects:

A. Banks are hard-pressed to finance any renewable facilities because the contracts are entirely illegitimate, a primary reason there are no renewable facilities currently in Florida.

B. Illegitimate contracts preclude any opportunity for investors, rather than the people of Florida, to foot the bill to the renewable conversion (via securitization of the debt to investors from the capital markets rather than taxation or rate-increase of the people). This has forced vendors such as COB to consider "merchant" structures with no PPAs whatsoever in order to collect payment via the FERC requirement rather than allow the FL IOUs to again block renewables or unnecessarily thieve from the public.

C. Assists the utilities in presenting a high-price estimate for renewable conversion because of inability for anyone *but* utilities to finance the facilities with the worthless agreements that only state finance banks will fund **due to the investment grade credit rating of the IOU** (and the high-price estimates include taxation of the people as well as cost recovery and increased rate-payments to satisfy debts without, as we have proposed, the healthy injection of investment dollars first) when in fact the renewable conversion could be Florida's best economic development strategy in the last 50 years, if our write-up is adopted. Utilities have used this dirty fact to elicit the collusion of state finance entities to repress the competition which, obviously, is competition to what is essentially then *state* debt paper, which debt products the state has no wish to inform the public have been forwarded only on the basis *of a credit rating that assumes continual monopoly* and without any true collateral (such as a legitimate dNPV derived from a bankable contract, matched to "plant and equipment"). When the state has done something wrong with the tax and pension money, it becomes the utilities' "friend" forever, or at least for longer than the term of the debt paper. We estimate from SEC and Q-10 filings of the utilities that 90% or more of conventional technology facilities are financed using the public "credit card" all without true collateral. A reasonable person would conclude 1) all utility-owned facilities truly belong to the state, which belongs to the people and 2) the people should be getting a monthly check *from* their utilities. A clear view of the dynamic suggests that un-bankable contracts, smiled upon by PSCs

that are peopled with former utility officers, are the true source of all government collusion to repress renewables.

D. Utilities have been using un-bankable contracts, a self-produced financing obstacle, to increase energy prices (opaque contract practices assisting in obscuring detection of energy speculation which has caused Florida's energy prices to rise even *without* a single renewable facility!) to frighten the public from the renewable conversion America requires. Proof of this propaganda on the part of Southern Company, parent company to Florida IOU Gulf Power, has already been submitted to the PSC.

- **ABOVE ALL, *PROTECT THE PUBLIC* BY BENCHMARKING AND MARKING BOTH THE ENERGY PRICE AND THE REC PRICE TO MARKET, TO GUARANTEE THAT IN NO WAY WILL THE PEOPLE OF FLORIDA BE ADVERSELY AFFECTED WHILE THE ENERGY IS CONVERTED TO RENEWABLE SOURCES.**

The number one fear that the utilities have injected into our communities is that renewable conversion will bankrupt the average man, knowing full well that all conversions could be financed through capital markets and other sources, and that rates and RECs could be marked to market thresholds (which is exactly the same as "what you can afford"). This chicanery needs to stop in Florida.

- **COST RECOVERY**

Why would the PSC consider cost recovery from the public when there are alternatives *without* cost recovery from the public such as tax credit monetization, dNPV cash forwarding and the capital markets among other options if the PSC requires bankable contracts for both RECs and electricity? Who is favored by the transfer of funds from the rate-payers to the utilities?

- **UNDER NO CIRCUMSTANCES COULD ANY RENEWABLE SOURCE BE REASONABLY EXPECTED TO ALLOW THE UTILITIES TO OPERATE THE RECs MARKET.**

Considering the consistently wrongful behavior we have documented from your IOUs, who have sent representatives to speak regularly in your meetings about RPS compliance while hypocritically and simultaneously refusing to provide bankable contracts, this trust in highly inappropriate. Would you recommend that I put control of *my* REC revenue stream into the hands of that Southern fox, Tom Johnson, or should I prefer his lying lobbyist/politician-paying bosses? Further, we note that all the utilities have expressed general approval of your strawman, which we do not find surprising as it (or most probably the original from which this draft was borrowed) was written for their benefit.

One of the world's top currency traders with 35 years of direct oil & gas experience reviewed your RPS language and provided the statement, "My comment on the draft is that it is still wholly inadequate, unfair, and slanted in favor of the IOUs. Their aim is to avoid or pass on compliance to the consumer and give up monopoly power as their means of last resort."

I urge the PSC to *be* the PUBLIC SERVICE COMMISSION and act for the public's good in this matter, and further (please forgive our presumption, but we've seen nothing but collusion, evasion and omission by so many in Florida and please know that we look forward to an entirely different experience with the FL PSC) **we require explicit written response from the PSC on each topic presented or alternately we would be glad to attend a public meeting on our alternative strawman.**

We are happy to provide any documentation by request.

Respectfully submitted

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