

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 3, 2008
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FIPUG COMMENTS WITH RESPECT TO PROPOSED RPS RULES

The Florida Industrial Power Users Group through its undersigned attorney has attended and participated in the concurrent workshops on Energy Efficiency and Renewable Energy that the Commission has conducted over the past twenty months. The FIPUG representative makes the following general comments with respect to the proposed rules. The rules are well thought out and well drafted, but they preserve an existing utility supply model that discourages demand side innovation.

1. THE PROPOSED RULES NEED TO BE MODIFIED TO BREAK AWAY FROM THE CONVENTIONAL PUBLIC UTILITY SUPPLY MODEL.

For the past 90 years more or less electricity has been supplied to consumers from a central power plant connecting customers with wires. 1) The public utility is protected by government legislation. 2) The public utility’s appeal to investors is based upon growth in sales; 3) preservation of operating, but obsolescent, infrastructure; 4) improved leverage through the public utility holding company vehicle which allows a non regulated holding company to borrow money relatively inexpensively and then invest the borrowed capital in a regulated utility as high yield equity capital and 4) most importantly a captive customer base.

The model necessarily demands sales growth rather than sales reduction. Under this model the average monthly residential electric bill in peninsula Florida is now to be found in the top ten of the 100 largest utilities in the nation. Although weather is a major factor in the cost of electricity to Florida citizens, recent legislation to support “environmentally friendly” nuclear plants and solar plants has exacerbated the circumstances. Under the new law electric rates have moved away from the standard practice of charging customers only for electricity generated by plants that are in use in useful service. This law authorizes utilities to charge customers for electric plants that won’t come into service for many years. This law shifts utility risk directly to customers while it locks in utility profits. The legislation will increase FPL and PEF’s customer’s bills by over \$550 million beginning in January 2009 with similar annual increases to follow annually for the next ten years. Customers will not see any benefit from the proposed plants until they begin operating sometime in the distant future, if ever.

Utilities have further reduced their risk by moving base rate fixed costs to guaranteed cost recovery clauses. This has the effect of “decoupling” revenues from costs. If some customers become energy efficient the utility may avoid the cost of fuel, but this cost reduction is more than offset by the authority to increase the kwh charge to other customers to recover the guaranteed fixed cost recovery buried in the utility’s fuel factor.

A new phrase has risen in the energy lexicon to identify many customers as the “energy poor.” The phrase describes citizens already plagued by high ad valorem taxes, insurance premiums and falling residential values over which they have no control. Disconnection notices to the energy poor issued by electric utilities have reached record levels according to the daily press.

The proposed rules for the most part preserve the existing model, by allowing utilities to preempt renewable energy development by building their own facilities to the exclusion of competitors. They can opt out of the renewable program if they deem it too expensive. The rules give electric utilities rather than an independent agency the function of designing the Florida Renewable Energy Market.

2. FOR THE MOST PART THE POTENTIAL RENEWABLE ENERGY SUPPLIERS ACKNOWLEDGE THAT THE SUPPLY THEY SUPPORT WILL INCREASE ELECTRIC RATES.

Solar suppliers seek a multiplier over current fuel charges or in the alternative a guaranteed tier for solar energy. The proposed rules provide options granting both requests. On the other hand the FPSC staff acknowledges that utilities are obligated to buy renewable energy supplied at avoided cost or less although this is not stated in the rule. The proposed rules only apply to suppliers that provide energy at more than utility “avoided cost.” The rules do not expressly encourage a competitive supply of renewable energy.

3. THE RULES OMIT REFERENCE TO ENERGY EFFICIENCY.

There may be an abundant supply of energy savings available in the short run from energy efficiency measures, but the 1991 Demand Side Management Manual is not being updated by the current rules. This manual uses a RIM test which renders many potential fuel savings programs non cost effective. This is because fuel cost savings are offset dollar for dollar with lost fuel cost recovery revenues and then further denigrated by lost base revenues, environmental revenues and conservation revenues.

Mr. Zambo has filed a report in this docket that states that his client’s zero fuel cost cogeneration displace 2,600,000 mwh of utility electrical production and the related fossil fuel cost, but the cogeneration programs have been determined not to be cost effective. This is in spite of the fact that waste heat cogeneration meets all of the criteria set out in § (1) (a) of proposed rule 17.400. It would appear that this beneficial activity might even be precluded from collecting RECs under the provisions of 17.410 (2) (e) of the proposed

rules because cogeneration is an existing demand side conservation program. This is true even though current suppliers receive no direct financial incentive to cogenerate.

4. SUGGESTED MODIFICATION TO IMPROVE THE RULE BY MOVING AWAY FROM THE ESTABLISHED UTILITY MODEL.

- A. Give greater emphasis to energy efficiency and conservation.
- B. In separate proceedings begin to remove fixed costs from cost recovery clauses.
- C. Promote non utility innovation by setting utility avoided costs at current costs for solar and nuclear plants.
- D. Reemphasize the requirement that utilities must buy renewable energy offered and below the utility's avoided cost to supply power.
- E. Place no limit on renewable energy offered a below utility avoided cost.
- F. Establish a FPSC renewable Energy Department to be funded by the §350.113 Florida Statutes Florida Public Service Regulatory Trust Fund.
- G. If Utilities reject a proffered renewable energy program, provide the proposer the right to have the proposal reviewed by an independent agency.
- H. Have RECs certified by the FPSC Renewable Energy Division
- I. Develop a competitive environment for the REC market
- J. Provide a central transparent system to display current REC values and market activity
- K. Make REC contracts bankable
- L. Prohibit Regulated Utilities from dealing with affiliated companies if other renewable sources are available.

Respectfully submitted

/s/ John W. McWhirter, Jr.

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