



September 5, 2008

VIA ELECTRONIC FILING

Ms. Ann Cole, Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850


Re: Establishment of rule on renewable portfolio standard; Docket No. 080503-EI

Dear Ms. Cole:

Please find enclosed for filing on behalf of Progress Energy Florida, Inc. ("PEF") its Post-Workshop Comments in the above referenced docket.

Thank you for your assistance in this matter. Should you have any questions, please feel free to call me at (727) 820-5184.

Sincerely,


John T. Burnett

JTB/lms
Attachment

Progress Energy Florida's Post-Workshop Comments
Renewable Portfolio Standard Rulemaking

September 5, 2008

I. PEF's Proposed Redline Changes to Staff's "Strawman" RPS Rules

17.400 Florida Renewable Portfolio Standard

(1) Application and Scope.

(a) The Commission shall establish numerical portfolio standards for each investor-owned electric utility that will promote the development of renewable energy, protect the economic viability of existing renewable energy facilities, diversify the types of fuel used to generate electricity in Florida, lessen Florida's dependence on fossil fuels for the production of electricity, minimize the volatility of fuel costs, encourage investment in the state, improve environmental conditions, and minimize the costs of power supply to electric utilities and their customers.

(b) After approval of the initial renewable portfolio standards, the Commission shall review and set renewable portfolio standards for each investor-owned electric utility at least once every five years. The Commission on its own motion, or upon petition by a substantially affected person or a utility, shall initiate a proceeding to review and, if appropriate, modify the renewable portfolio standards. All modifications of the approved renewable portfolio standards and the associated compliance plans shall only be on a prospective basis.

(c) In a proceeding to establish or modify the renewable portfolio standards, each investor-owned electric utility shall propose numerical renewable portfolio standards based on an analysis of the availability, technical capability, and economic effectivenesspotential for Florida renewable energy resources ~~to provide reasonably achievable and affordable annual energy (KWH) savings.~~

(2) Definitions.

(a) “Florida renewable energy resources,” means electrical, mechanical, or thermal energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen, biomass, solar energy, geothermal energy, wind energy, ocean energy, waste heat, or hydroelectric power that is produced in Florida.

(b) “Renewable energy,” means 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 source, waste heat, from sulfuric acid manufacturing operations.

(c) “Biomass,” means a power source that is comprised of, but not limited to, combustible residues or gases from forest products manufacturing, waste, or ~~co~~-products from agricultural and orchard crops, waste or co-products from livestock and poultry operations, waste or byproducts from food processing, urban wood waste, municipal solid waste, municipal liquid waste treatment operations, dedicated energy crops, and landfill gas.

(d) “Class I renewable energy source,” means Florida renewable energy resources derived from wind or solar energy systems.

(e) “Class II renewable energy source,” means renewable energy derived from Florida renewable energy resources other than wind or solar energy systems.

(f) “Renewable Energy Credit,” means a financial instrument that represents the unbundled, separable, renewable attribute of renewable energy or equivalent solar thermal energy produced in Florida and is equivalent to one megawatt-hour of electricity generated by a source of renewable energy located in Florida and/or a Florida Renewable Energy Resource.

(g) “Renewable Portfolio Standard,” means the minimum percentage of total annual retail electricity sales by an investor-owned electric utility to consumers in Florida that shall be supplied by renewable energy produced in Florida.

(h) “Solar Energy System,” means equipment that provides for the collection and use of

incident solar energy for water heating, space heating or cooling, or other applications that would normally require a conventional source of energy such as petroleum products, natural gas, or electricity that performs primarily with solar energy. In other systems in which solar energy is used in a supplemental way, only those components that collect and transfer solar energy shall be included in this definition.

(i) “Solar Photovoltaic System,” means a device that converts incident sunlight into electrical current.

(j) “Solar thermal system,” means a device that traps heat from incident sunlight in order to heat water.

(k) “Equivalent Solar Thermal Energy,” means the conversion of the thermal output, measured in British Thermal Units, of a solar thermal system to equivalent units of one megawatt-hour of electricity otherwise consumed from or output to the electric utility grid.

(3) Renewable Portfolio Standard. Within ~~90~~180 days of the effective date of this rule, and not less than every five years thereafter, each investor-owned electric utility shall file for approval by the Commission proposed renewable portfolio standards based on an analysis of the availability, technical capability, and economic effectivenesspotential of Florida renewable energy resources for each utility’s service area.

(a) Initially, each investor-owned utility shall submit proposed annual renewable portfolio standards which meet or exceed the following long term standards through the production or purchase of renewable energy credits pursuant to Rule 17.410, F.A.C.:

1. by January 1, 2010: 2 percent of the prior year’s retail electricity sales;
2. by January 1, 2017: 3.75 percent of the prior year’s retail electricity sales;
3. by January 1, 2025: 6 percent of the prior year’s retail electricity sales;
4. by January 1, 2050: 20 percent of the prior year’s retail electricity sales.

Options for Wind & Solar Preference:

~~OPTION I:~~

~~(b) By January 1, 2017, a minimum of 25% of the renewable portfolio standard shall be provided from Class I renewable energy sources; OPTION II:~~

~~(b) By January 1, 2017, a minimum of 20% of the renewable portfolio standard shall be provided from Class I solar photovoltaic or solar thermal systems and 5% of the renewable energy portfolio standard shall be provided by Class I wind energy systems; OPTION III:~~

~~(b) By January 1, 2017, a minimum of 20% of the renewable portfolio standard shall be provided from Class I solar photovoltaic or solar thermal systems and 5% of the renewable energy portfolio standard shall be provided by Class I wind energy systems; OPTION III:~~

(b) For purposes of compliance with the renewable portfolio standards, a multiplier of 5 shall be applied to all renewable energy credits produced from Class I renewable energy sources until the first year in which they represent, in aggregate, 25% of the annual Renewable Portfolio Standard.

(c) Each investor-owned electric utility proposed renewable portfolio standard filing shall, at a minimum, contain the following:

1. Current and ten-year forecast of installed capacity in kilowatts for each Florida renewable energy resource currently in the IOU's Renewable portfolio or as planned in its~~the~~ forecast;
2. Levelized life-cycle cost in cents per kilowatt-hour for each Florida renewable energy resource;
3. Current and ten-year forecast of the effects of the renewable portfolio standard on the reduction of greenhouse gas emissions in Florida;
4. ~~Current and ten-year forecast of the effects of the renewable portfolio standard on economic development in Florida; and~~

~~5.~~ Current and ten-year forecast of the estimated retail rate impact for each class of customers of the proposed renewable portfolio standard.

(4) Compliance.

(a) In approving the proposed renewable portfolio standards and enforcing compliance with the approved renewable portfolio standards, the Commission shall ~~consider-excusing~~ an investor-owned electric utility from compliance with any renewable portfolio standard based upon a showing that:

1. the supply of ~~renewable energy or~~ renewable energy credits is not adequate to satisfy the demand for such energy; or
2. the cost of securing ~~renewable energy or~~ renewable energy credits was prohibitive such that the total costs for compliance with the renewable portfolio standard exceeded one percent of the investor-owned electric utility's total annual retail revenues.

(b) Any utility requesting to be excused from meeting its renewable portfolio standard must submit its request along with the annual report required by Rule 25-17.400(6), F.A.C.

(5) Cost Recovery. Reasonable and prudent costs associated with the provision or purchase of renewable energy credits to meet the utility's renewable portfolio standards, including administrative costs of the Florida Renewable Energy Credit Market, shall be recovered through the Environmental Cost Recovery clause.

(6) Reporting Requirements. Each investor-owned electric utility shall file with the Commission an annual report no later than April 1 of each year for the previous calendar year. Each investor-owned electric utility's report shall include the following:

(a) the retail sales of the prior year in megawatt-hours;

(b) the quantity of self-generated renewable energy credits in megawatt-hours and vintage separated by fuel type;

(c) the quantity of renewable energy credits purchased in megawatt-hours and vintage, separated by type of ownership and fuel type;

~~(d) the quantity and vintage of self-generated renewable energy credits~~

~~(e) the quantity and vintage of renewable energy credits purchased;~~

~~(f) the fuel type and ownership of the Florida renewable energy resource associated with each renewable energy credit;~~

(d) a statement as to whether it was in compliance with the renewable portfolio standard in the previous calendar year; and

(e) the utility's plan for additional generation or procurement to meet the renewable portfolio standard for the current calendar year and the following two years.

(7) Federal Law. The commission shall not enforce any provisions of Rules 25-17.400 or 25-17.410 that are more restrictive or inconsistent with any renewable energy requirements or other related or similar provisions imposed on investor-owned utilities by federal law.

(8) Repeal. Rules 25-17.400 and 25-17.410 shall be repealed on the effective date of any state or federal law or rule imposing greenhouse gas emission limits on investor-owned utilities.

Specific Authority 350.127(2), 366.05(1), FS. Law Implemented 366.02(2), 366.04(2)(c), (5), (6),

366.041, 366.05(1), 366.81, 366.82(1),(2), 366.91(2), 366.92 FS. History—New XX-XX-08.

17.410 Florida Renewable Energy Credit Market.

(1) Investor-owned electric utilities shall establish and administer, subject to Commission approval pursuant to subsection (4), an electronic renewable energy credit market. The renewable energy credit market shall allow for the transparent production, buying, selling, and trading of renewable energy credits used to comply with the renewable portfolio standards of Rule 25-17.400, F.A.C. All records associated with the production of and the buying, selling, or trading of renewable energy credits shall be available to the Commission for audit purposes.

(a) Investor-owned electric utilities are encouraged to collectively establish and contract with an independent not-for-profit corporation for the development, administration, and maintenance of a Florida Renewable Energy Credit Market.

(b) Municipal electric utilities and rural electric cooperative utilities are encouraged to participate in the Florida Renewable Energy Credit Market.

(c) The administrative costs associated with the Florida Renewable Energy Credit Market shall be collected either through membership dues, certification fees, or administrative fees assessed to a renewable energy credit. Fees shall be fair, equitable, and cost-based.

(2) Each investor-owned electric utility shall comply with the renewable portfolio standards approved by the Commission pursuant to Rule 25-17.400, F.A.C., through the production or purchase of renewable energy credits.

(a) The following entities are eligible to produce renewable energy credits that may be counted toward the renewable portfolio standard:

1. Investor-owned electric utility Florida owned renewable energy resources;
2. Municipal electric utility and rural electric cooperative utility owned Florida renewable energy resources;
3. Non-utility Florida renewable energy resources providing net capacity and energy under a purchase power agreement to a Florida electric utility;
4. Non-utility Florida renewable energy resources greater than 2 megawatts providing on site generation to offset all or a part of the customer's electrical needs.
5. Non-utility Florida renewable energy resources greater than 2 megawatts providing equivalent solar thermal energy to offset all or a part of the customer's electrical needs;
6. Customer-owned Florida renewable energy resources, 2 megawatts or less, that have not received incentives from a Commission-approved demand-side conservation program pursuant to the Florida Energy and Efficiency Conservation Act, Sections 366.80-.85 and 403.519, F.S.

(b) A renewable energy credit is retained by the owner of the eligible Florida renewable energy resource from which it was derived unless specifically sold or transferred.

(c) A renewable energy credit shall be valid for two years after the date the corresponding megawatt-hour or equivalent solar thermal energy was generated. A renewable energy credit from a customer-owned renewable system less than 2 megawatts shall be valid for two years after the date the renewable energy credit is certified. However, a renewable energy credit shall be retired after it is used to comply with the Florida or any other state, regional or federal renewable portfolio standard.

(d) Renewable energy credits shall not be used for compliance with the Florida renewable portfolio standard if the renewable energy credit or its associated energy has already been counted toward compliance with any other state or federal renewable portfolio standard.

(e) Renewable energy credits shall not be used for compliance with the Florida renewable portfolio standard if the renewable energy credit results from a Commission-approved demand-side conservation program pursuant to the Florida Energy Efficiency and Conservation Act, Sections 366.80-.85 and 403.519, F.S.

~~(3) Initially, the price of each renewable energy credit shall be capped at the equivalent of \$16 per ton of net greenhouse gas emissions (GHG) reduced by Florida renewable energy resources relative to the GHG emissions otherwise emitted by the utility. The price cap shall be reevaluated or phased out upon adoption of a state or federal cap and trade system.~~

(3) Within ~~180~~90 days from the effective date of this rule, the investor-owned electric utilities shall file for Commission approval the structure, governance, and procedures for administering the renewable energy credit market. The compliance filing shall, at a minimum, provide provisions for the following:

(a) a mechanism to buy, sell, and trade renewable energy credits generated by utilities and Florida renewable energy resources;

(b) the aggregation of renewable energy credits for customer-owned Florida renewable energy resources;

(c) the certification and verification of renewable energy credits as defined in Rule 25-17.400(2)(f), F.A.C., including renewable energy credits resulting from Equivalent Solar Thermal Energy as defined in Rule 25-17.400(2)(k), F.A.C.;

(d) an accounting system to verify compliance with the renewable portfolio standard; and

(e) a method to record each [hourly market](#) transaction [or long-term agreement](#), instantaneously, and to indicate whether the renewable energy credit is associated with a Class I or Class II renewable energy source as defined in Rule 25-17.400(2)(d) and (e), F.A.C.

Specific Authority 350.127(2), 366.05(1), FS. Law Implemented 366.02(2), 366.04(2)(c), (5), (6), 366.041, 366.05(1), 366.81, 366.82(1),(2), 366.91(2), 366.92 FS. History—New XX-XX-08.

25-17.420 Municipal Electric Utility and Rural Electric Cooperative Renewable Energy Reporting

(1) Each municipal electric utility and rural electric cooperative utility shall file with the Commission an annual report no later than April 1 of each year for the previous calendar year.

Each utility's report shall include the following:

(a) the retail sales of the prior year in megawatt-hours;

(b) the quantity of self-generated renewable energy in megawatt-hours separated by fuel type;

(c) the quantity of renewable energy purchased in megawatt-hours, separated by type of ownership and fuel type;

(d) the quantity and vintage of self-generated renewable energy credits;

(e) the quantity and vintage of renewable energy credits purchased;

(f) the fuel type and ownership of the Florida renewable energy resource associated with each renewable energy credit;

(g) a statement as to whether the utility has adopted a renewable portfolio standard, or has any plans to conduct a proceeding to establish a renewable portfolio standard in the upcoming year.

Specific Authority 350.127(2), 366.05(1), FS. Law Implemented 366.02(2), 366.04(2)(c), (5), (6), 366.041, 366.05(1), 366.81, 366.82(1),(2), 366.91(2), 366.92 FS. History—New XX-XX-08.

II. PEF's Responses to Staff's Subject-Specific Informational Requests

1. What is PEF's view on the use of bilateral contracts in the REC market and how should this be factored into the REC market design?

Response: *Bilateral agreements combined with an hourly or auction type market provide needed payment streams for the renewable supplier, and cost and regulatory certainty for the utility. In many commodity markets, the use of both bilateral contracts and hourly trading are important. Like other commodity markets, a REC market also benefits from the use of both arrangements. A bilateral REC agreement gives the renewable supplier a stream of payments that they can use to help obtain financing for their project. A bilateral REC agreement provides the supplier with an additional revenue source that may allow for financing when combined with an avoided cost PPA.*

A bilateral agreement is attractive to the utility as well. Assuming that the utility is required to obtain RECs based on a RPS, they either purchase the RECs from the market, or they can enter into a bilateral agreement for the RECs. Either method is acceptable, but unless bilateral agreements are allowed, a utility could find itself in the position of purchasing capacity and energy from a number of renewable suppliers, but not owning any RECS from those suppliers because they have been sold to another party through the auction. The utility would rather contract with a supplier that they already know and purchase any shortfall or sell excess RECs in the hourly market. The bilateral agreement allows the utility to plan its needs for RECs and encourages negotiations with renewable suppliers. An hourly market is still necessary along with bilateral agreements to provide the utility a source for RECs if they need more or a method to monetize any excess RECs that they may possess. In addition, some renewable suppliers may be unable or unwilling to enter into a bilateral agreement. In these cases, the hourly market provides a means to sell their RECs.

2. What is PEF's view on hourly trading in the REC market and how should this be factored into the REC market design?

Response: *Please see PEF's response in item #1 above.*

3. Should there be reward and penalty provisions in the RPS rules for excess compliance and non-compliance?

Response: *With respect to rewards, House Bill 7135 provides the Commission rulemaking authority to enact incentive-based adjustments to authorized rates of return on common equity to IOUs to incentivize renewable energy. PEF supports the current version of the Staff's proposed RPS rule as amended by PEF's suggested edits above, but PEF would also support the concept of rule-based rewards to incentivize renewable energy. With respect to penalties, section 366.095, Florida Statutes, already addresses the Commission's authority to levy penalties against IOUs that refuse to comply with a lawful Commission rule, and it would be improper and unnecessary to provide separate penalty provisions in an RPS rule.*

4. Should a separate cost recovery clause be established for RPS costs?

Response: *While not specifically addressed in House Bill 7135, it appears that the Legislature contemplated in amended section 366.92(4), Florida Statutes, that certain costs associated with renewable energy demonstration projects would be recovered through the Environmental Cost Recovery Clause. That being said, however, there could be some logistic and administrative advantages to having a separate RPS clause so long as the cost recovery provisions of that rule were clear and workable. In either case, PEF believes that the recovery of RPS compliance costs is essential through a clause.*

5. Regarding renewable generation assets, should there be a RFP process for utility self-build options and/or standard cost-effectiveness criteria for self-build options?

Response: *PEF believes that current statutes and rules regarding competitive bidding and cost effectiveness for generation assets are adequate and appropriate for dealing with any utility renewable energy self-build options, and that no further rule language is needed in the RPS rule to address these issues.*

6. Should there be a standard offer contract requirement for RECs?

Response: *PEF opposes the concept of a standard offer contract purely for RECs. PEF believes that a REC market will provide pricing and structure for REC disposition (please see response to Question 1 above). However, PEF does support bilateral purchases of RECs being included in existing renewable standard offer contracts.*

7. How should the revenue cap in Staff's current proposed rule be calculated?

Response:

PEF supports the Staff's proposed rule in this regard, which states that the compliance revenue cap is reached when total costs for compliance with the renewable portfolio standard exceeded one percent of the investor-owned electric utility's total annual retail revenues, excluding taxes, franchise fees, and other similar items.

8. Should the RPS rule include provisions to ensure that only the "least cost" RECs get purchased?

Response:

PEF believes that the RPS rule should not endeavor to set strict limitations or requirements for REC purchases in advance of the development and execution of the Florida REC market because doing so may have unintended consequences on REC availability and pricing. Rather, PEF recommends that each IOU have the discretion to purchase, obtain, and/or provide RECs under varying circumstances, as may be appropriate with each differing factual situation, with the understanding that an IOU would have the burden to show that its REC portfolio was reasonable and prudent under the circumstances.

9. If the RPS does not include a price cap, should the rule have a provision that allows the PSC to intervene if needed to address any REC price issues that may arise?

Response: *PEF believes that the Commission always has the right to "intervene" in any of its rules by initiating a rulemaking proceeding to change or modify a rule provision.*