

## **Sunshine State Solar Power, LLC**

### **Comments on Draft Strawman RPS Rules**

#### **Initial Renewable Portfolio Standards - (Pages 2 and 3 of Summary of Draft Rule)**

Florida's RPS needs to set aggressive goals to stimulate development of renewable technologies and reduce greenhouse gases as quickly as possible. Florida lags most of the nation in advancing green technologies and we will never close this gap without stretch targets. As presented in the current draft, the percentage target timeline sets the bar too low and does not reflect the need for immediate action. We propose the following standards:

By January 1, 2010	2% of prior year's retail sales
By January 1, 2013	4%
By January 1, 2016	8%
By January 1, 2019	12%
By January 1, 2022	16%
By January 1, 2025	20%

SSSP agrees that the RPS rules and procedures should be subject to ongoing reviews with subsequent adjustments as necessary; however, we suggest that the time period be shortened to 3 years rather than the proposed 5-year period. This will result in a dynamic process with the ability to make any necessary changes in a more timely fashion.

Additionally, as will be addressed later in more detail, compliance with these standards should not be voluntary. Without an obligation to comply, Florida will not achieve meaningful results and the RPS will be unsuccessful. The RPS must include Alternative Compliance Payments and Penalty Payments for respective non-compliance events.

#### **Renewable Energy Credits - (Page 3 of Summary of Draft Rule)**

The draft RPS rule requires RECs to be the sole means for compliance. SSSP assumes that this means that feed-in tariffs and/or other performance payments are "off the table". If this is the case, we would like to understand the reasons behind this decision.

As mentioned previously by many stakeholders, revenue certainty is critical if Florida is going to attract capital investment for renewable projects. When determining appropriate financing terms, Lenders will discount project revenues such as market-based REC payments to account for price volatility. Additionally, short-term contracts or spot sales of RECs will result in added financing uncertainty compared to fixed, long-term contracted payment streams. Similarly, equity investors will analyze the revenue uncertainty and determine that this risk may not provide for an acceptable rate of return.

For these and other reasons, SSSP believes that feed-in tariffs or similar performance payments will be more successful in advancing renewable projects and meeting the goals of the RPS.

If the RPS rules will only consider a REC-based system, it is imperative that the REC value be set at a proper risk-adjusted level to ensure appropriate rates of return to all investors. Otherwise, the RPS will not achieve its goals and the required renewable investments will not occur. If Florida faces an insufficient supply of renewable power in the future, it will be because the RPS incentives do not justify the investment. A further discussion of appropriate pricing is addressed in the REC Price Cap Section.

### **Encouragement of Wind and Solar – (Page 4 of Summary of Draft Rule)**

SSSP believes that carve-outs/set asides for wind and solar are the most appropriate mechanisms to advance these preferential zero emission technologies. We are in agreement with the Tier I and Tier II structures but also suggest that Tier II be further subcategorized to differentiate within this “all other” category. Categories to be considered could include (a) emissions (i.e., combustion vs. non-combustion), (b) technological status (developmental vs. mature), and (c) life cycle (existing project vs. new investment).

We favor Option II of the set aside; however, we are concerned that the proposed REC Price Cap will not allow Solar PV and many other renewable technologies to be economic and will negate the implied value of the preferential set asides. Compared to a required price in cents per kWh of the high teens to mid twenty range (\$.17-.25/kWh), the current proposal of approximately \$.096 - .106/kWh would result in a significant shortfall (the current proposal calculation was based on an average avoided cost of \$.09/kWh and a projected capped REC value of between \$.006 and .016/kWh). Presumably, prices would be below the cap and the shortfall would be greater than the above calculation.

Additional concern is created by the fact that current projections indicate that one of the IOUs would hit the proposed 1% revenue cap at the proposed REC pricing level. SSSP requests that this calculation and supporting details be provided to the stakeholders.

We do not expect Solar PV applications and many other renewable technologies to develop with any significant breadth at these prices and cap levels, regardless of the fact that they were granted a preferential set aside. Additionally, compliance excusal for lack of supply would render the set aside even more meaningless.

Based on the above REC pricing results, we would be forced to change our view of the preference options and favor Option III and its multiplier. At least under this scenario, a REC Price Cap of \$.08/kWh (\$.016/kWh multiplied by 5) plus an avoided cost payment of \$.09/kWh may support some solar and renewable applications. Unfortunately, this is not an optimal solution and it is unacceptable to be “forced” to select this preference alternative in order to obtain any benefits from the RPS.

The RPS design must result in a REC Price that provides an acceptable rate of return for the preferred zero emission technologies.

**Option for Wind & Solar Preference – (Page 4 of Draft Rule)**

With respect to Option III, when is it expected that 25% level will first be achieved? As discussed earlier about financing requirements and the need for revenue certainty, having an uncertain tenor on the preferred multiplier option adds another issue for investors to consider. Additionally, we are concerned that some unforeseen circumstance(s) would result in a termination of the multiplier before it had served its purpose.

SSSP suggests that rather than using an open-ended time period, use January 1, 2017 so that Option III enjoys the preferential treatment comparably with Options I & II.

**Excusal for Noncompliance – (Page 4 of Summary of Draft Rule)**

Compliance must not be voluntary and non-compliance excusals must be very limited if the RPS program is to succeed. Florida needs to take immediate action with respect to reducing greenhouse gases and all stakeholders must be compelled to perform the required obligations. Anything less will result in failure.

Florida's RPS should include both Alternative Compliance Payments ("ACPs") and Penalties. The ACPs should cover situations related to insufficient supply and Penalties should be assessed for willful failures to comply. These mechanisms should be recommended as part of the RPS rules regardless of staff's interpretation of Section 366.92, F.S.

SSSP is confident that the renewable energy industry has the resources and the desire to develop a vibrant market in Florida. Accordingly, any issues of insufficient supply will be due to inadequate REC or other performance payments not from the lack of support by renewable developers. If insufficient supply arises, an ACP should be paid into a separate pool of funds that would be available to renewable energy projects as a supplement to the otherwise inadequate RPS payments.

A Penalty payment should exist when an IOU or other required party willfully fails to comply with the RPS rules. These Penalty payments would not be recoverable and would not be subject to a cap. Additionally, the Penalty payments should be set at some multiple of the REC price (e.g., 150% of average REC price).

Non-compliance excusals should be limited to prohibitive costs, which would include both REC and ACP payments but not Penalties. However, as will be discussed later, the prohibitive cost level (currently 1% of annual retail sales) must be set properly for these mechanisms to succeed.

### **Cost Recovery & REC Compliance – (Pages 4 & 5 of Summary of Draft Rule)**

Staff mentions throughout the document that RECs are an unbundled, separate attribute. Additionally, it is proposed that the REC costs be recovered through the ECR clause while energy payments under a PPA are recovered through normal ratemaking procedures.

Is it Staff's intention that wholesale PPAs will be precluded from having a bundled product and that these PPAs must provide for discrete, separated payment streams for the energy and REC components?

Also, is it intended that the IOU or other required party be obligated to purchase the REC as part of a PPA or will the generator have to look separately to the REC Market to trade this attribute? Similarly, will residential and commercial rooftop PV generators need to trade their respective RECs into the market or will the IOU or other required party providing grid connection be obligated to purchase the RECs?

### **REC Price Cap – (Page 6 of Summary of Draft Rule)**

SSSP is concerned with the concept of a REC Price Cap, especially if the proposed cap is not set at an initial level that exceeds the amount necessary to allow significant investment in renewable projects. As discussed earlier, a REC Price Cap at \$.016/kWh (or \$16/MWh) is a non-starter for many renewable projects.

SSSP suggests that the REC Price Cap be eliminated and that the overall cost cap of 1% (or other appropriate percentage) of annual retail revenues be used as the limiting mechanism for compliance payments.

SSSP also would like to understand the calculation that converts the GHG/ton price into a cents/kWh REC price. We appreciate any further information that will support this analysis.

### **Renewable Portfolio Standard – (17.400, Section 5 Page 5)**

The draft rule provides for recovery of reasonable and prudent REC costs. While it is envisioned that the credits will be "traded" within the REC Market, will the RPS rules distinguish between speculative trading and buying RECS for compliance? If so, how will trading profits and losses be handled?

### **REC Energy Credit Market – (17.410, Section 2c Page 8 of Draft Rule)**

The draft rule provides for a two-year life for each REC. This time period is longer than most current REC programs and could span three reporting periods under the proposed RPS rules.

SSSP suggests that the RECs have a life of no more than 15 to 18 months.