

**Ruth Nettles**

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**From:** Lisa Scoles [lscoles@radeylaw.com]  
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Electronic Filing

a. Person responsible for this electronic filing:

Susan F. Clark

Radey Thomas Yon & Clark, P.A.

301 South Bronough Street, Suite 200

Tallahassee, Florida 32301

(850) 425-6654

[sclark@radeylaw.com](mailto:sclark@radeylaw.com)

b. Docket No. 070674-EI – Proposed Amendment of Rule 25-6.065, F.A.C., Interconnection and Net Metering of Customer-Owned Renewable Generation.

c. Document being filed on behalf of Florida Power & Light Company, Gulf Power Company, Progress Energy Florida, Inc., and Tampa Electric Company

d. There are a total of 11 pages.

e. The document attached for electronic filing is the Comments of Investor-Owned Utilities.

(See attached file: Comments of IOUs)

Thank you for your assistance in this matter.

*Lisa Scoles, J.D., M.B.A.*  
**Radey Thomas Yon & Clark, P.A.**  
 301 S. Bronough Street, Suite 200  
 Tallahassee, FL 32301  
 Receptionist: (850) 425-6654  
 Direct Line: (850) 425-6662  
 Fax: (850) 425-6694  
 Email: [lscoles@radeylaw.com](mailto:lscoles@radeylaw.com)  
 Website: [www.radeylaw.com](http://www.radeylaw.com)

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**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Proposed Amendment of )  
Rule 25-6.065, F.A.C., )  
Interconnection and Net Metering )  
of Customer-Owned Renewable )  
Generation )  
\_\_\_\_\_ )

Docket No. 070674-EI

Filed: January 25, 2008

**COMMENTS OF INVESTOR-OWNED UTILITIES**

**I. INTRODUCTION**

1. Florida's four investor-owned utilities ("IOUs") – Florida Power & Light Company ("FPL"), Gulf Power Company ("Gulf Power"), Progress Energy Florida ("PEF"), and Tampa Electric Company ("Tampa Electric") – together submit these comments regarding the proposed amendment to Rule 25-6.065, Florida Administrative Code ("F.A.C."), as published in the Florida Administrative Weekly on January 4, 2008. As permitted in the Notice of Proposed Rulemaking, the IOUs submit these written comments for inclusion in the record of this proceeding and for consideration by the Florida Public Service Commission ("FPSC" or "Commission").

2. The IOUs request the opportunity to participate in any hearing held on this matter. Further, the IOUs also request the opportunity to participate in the Agenda Conference scheduled to consider the proposed rule amendments and these comments in order to assist the Commission by answering any questions and further elaborating on the IOUs' concerns and specific alternative rule language.

3. The IOUs remain committed to the use and development of renewable resources in serving customers in the state of Florida. Collectively, the IOUs have nearly 200 photovoltaic ("PV") facilities currently connected to their systems and that number continues to grow. The IOUs also have numerous interconnections with renewable resources other than PV, such as

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generation from municipal solid waste facilities, landfill gas, agricultural and forestry byproducts and waste heat generation.

4. The proposed rule provides substantial subsidies to net-metered customers at the expense of all other customers, and for this reason the Commission should carefully consider the need for and magnitude of the subsidies proposed to promote the desired customer-owned generation. In comments filed with the Commission on September 18, 2007, the IOUs stated their concerns about the subsidies derived from the waiver of fees and costs and from payments for excess energy at above avoided cost, as compared to the value of such subsidies in incenting the desired renewable generation. *See* IOUs' September 18, 2007, Comments, p. 2. The IOUs will not reiterate those comments or the comments regarding insurance for Tier 1 generators, but continue to disagree with the view that these subsidies are justified in order to promote the customer-owned generation targeted by the rule.

5. There are three concerns the IOUs wish to highlight again and suggest specific amendments. Each suggested change and its rationale are outlined below. Attachment A to these comments and the rule language previously submitted set forth specific alternative rule language to address the IOUs' concerns.

6. In addition, the IOUs seek confirmation of their understanding of Subsection (8)(h). The IOUs understand the phrase "applicable demand charge for the maximum measured demand during the billing period" to mean the highest demand registered on the utility's meter during the billing month. This measured demand would not be reduced or otherwise offset by customer generation, but would be the actual demand registered on the meter. In lieu of a specific rule revision, the IOUs request that this clarification be provided in a Commission order associated with the final rule and allow this interpretation to be reflected in the IOUs' tariff agreements.

## II. OWNERSHIP OF RENEWABLE ENERGY CERTIFICATES SHOULD BE LEFT OPEN

7. The IOUs continue to believe that Subsection (9) regarding the ownership of Renewable Energy Certificates ("RECs") should be deleted in its entirety and that the issue should be addressed as part of a comprehensive policy on promoting renewable generation, such as in the current Renewable Portfolio Standard ("RPS") process. The ownership of RECs when the generator is being subsidized by waiver of costs or fees or payments for energy above avoided cost is a policy decision that should be made as part of a global policy on the value, use, certification, verification, and tracking of RECs and should not be decided in isolation as part of the proposed rule on net metering and interconnection.

8. Under the rule, renewable generators would be subsidized by the general body of customers, as discussed above, *because* they are producing renewable generation. If the RECs, as well as the subsidies, are given to the generating customer, then he/she receives financial benefits while the customers providing the subsidies receive no financial benefit.

9. The general body of customers could end up paying twice if RECs are left with the generating customer - first, in the subsidies provided by this rule and then again through the purchase of RECs from the generating customer. If the proposed rule is adopted, the Commission will be making a decision without knowing the financial impact on the general body of customers, who are already providing substantial financial support to renewable generating customers. It would be prudent to keep the issue open until all aspects and costs, and their impacts, are more fully understood.

10. Another concern is that the generating customer could contract to sell the RECs from a renewable generating unit for several years or for the life of the unit, thus eliminating the opportunity for this Commission to reverse its policy regarding ownership of RECs generated by

these subsidized facilities. Under this scenario, if a state or federal RPS is enacted in the future, such RECs will either be unavailable to the general body of customers or available from a third party at a higher cost.

11. Lastly, under the rule, renewable generators are free to sell RECs to out-of-state buyers. If this occurs, neither the Florida utilities nor state officials can rightly claim that the associated electricity is renewable because the green attributes would be held by persons or entities outside of Florida. Floridians would simply be left with classic – but high cost – electricity.

12. The Commission should delete Subsection (9) regarding ownership of RECs in its entirety, as indicated in Attachment A. This revision to the proposed rule would permit the Commission to retain flexibility and work through the entire RECs policy in a coordinated way in connection, for example, with consideration of a Florida RPS.

### **III. MONTHLY RECONCILIATION IS NEEDED**

13. The IOUs again suggest that the proposed rule be amended to allow monthly reconciliation. The current rule language would require that energy delivered to the grid during any billing cycle be netted against the customer's consumption for the billing cycle. Any unused kWh would accumulate and offset a customer's consumption in subsequent months, for not more than 12 months. At the end of the calendar year, the utility would pay the customer for any remaining kWh at an average annual rate based on the utility's COG-1, as available energy tariff.

14. In the IOUs' October 26, 2007, Comments, the IOUs raised and discussed the need for monthly rather than annual reconciliation for administrative efficiency and to reduce the already substantial subsidies provided to renewable generators by the general body of customers. For example, a monthly reconciliation allows the utility to apply excess generation to the customer's current billing period and issue an immediate credit to the bill, which reduces the

complexity of required billing system changes. A monthly reconciliation would also reduce the complexity of the billing process so that customers could more easily understand their bills and the application of any excess generation. In addition to these points, the IOUs stand by and fully incorporate their previously-expressed positions and specific rule revisions to Subsections (8)(e)-(f).

#### **IV. A MANUAL DISCONNECT SWITCH SHOULD BE REQUIRED FOR ALL TIERS**

15. In the proposed rule, a manual disconnect switch must be installed at the customer's expense only for Tiers 2 and 3, and the utility cannot require Tier 1 customers to have a manual disconnect switch, unless the utility installs the switch at its expense. As articulated in the IOUs' October 26, 2007, Comments and at the December 18, 2007, Agenda Conference, the IOUs believe that a manual disconnect switch of the visible load break type is a key safety and service requirement – and should be required for all generating customers.

##### **A. A Manual Disconnect Switch is Needed for Safety Reasons.**

16. For safety reasons, the utility must be able to disconnect the generation for emergency and maintenance requirements, hazardous conditions, and adverse electrical effects without affecting other customers or otherwise affecting service to the generating customer. Without a manual switch, the utility has no choice but to “pull” the meter and discontinue service in such situations. This is not a desirable alternative from the customer's perspective and should be avoided.

17. In Staff's Recommendation regarding the proposed rule amendment, it was noted that a visible disconnect switch can be an important safety measure for Florida given the fact that Florida is frequently subject to large thunderstorms and hurricanes. Staff Recommendation, Docket No. 070674-EI, *Proposed Amendment of Rule 25-6.065, F.A.C., Interconnection and Net Metering of Customer-Owned Renewable Generation*, p. 16 (Dec. 7, 2007). Staff further noted,

“pulling the meter is an unacceptable alternative, because that would not allow the customer to continue receiving electric service.” *Id.*

18. In recognition of Florida’s unique weather-related exposures, the IOUs strongly believe that all customers should be required to have a manual disconnect switch installed at their expense. The fact that California may not be utilizing disconnect switches, as discussed in Staff’s Recommendation regarding the proposed rule, should not be persuasive. California does not have the same exposure to storms and hurricanes as Florida, and therefore does not have the same likelihood of power outages, so California’s experience does not necessarily dictate the proper course of action to follow in Florida.

19. The current interconnection rule allows the interconnection agreement to require the customer to:

*Install, at the customer’s expense, a manual disconnect switch of the visible load break type to provide a separation point between the AC power output of the SPS [small photovoltaic system] and any customer wiring connected to the utility’s system. The manual disconnect switch shall be mounted separate from the meter socket and shall be readily accessible to the utility and capable of being locked in the open position with a utility padlock. The utility may open the switch, isolating the SPS, without prior notice to the customer. To the extent practicable, however, prior notice shall be given.*

Rule 25-6.065(3)(a), F.A.C. (emphasis supplied). In Staff’s Recommendation to adopt the original interconnection rule, Staff noted that Subsection (3)(a) “permits the utility to require the customer to install a manual disconnect switch so that the utility can isolate the SPS *for safety reasons.*” Staff Recommendation, Docket No. 010982-EI, *Proposed Rule 25-6.065, F.A.C., Interconnection of Small Photovoltaic Systems*, p. 4 (Sept. 6, 2001). There has been nothing offered in the workshops, in Staff’s Recommendation, or at the Agenda Conference to indicate that anything has changed to lessen these safety concerns.<sup>1</sup> To ensure safety, a manual

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<sup>1</sup> At the October 15, 2007, workshop, Mr. Mike Sheehan of the Interstate Renewable Energy Council (IREC) stated, “there is a safety issue with pulling meters under load . . . . So I would be

disconnect switch is needed for systems 10 kW or less and therefore a switch should be required at the customer's expense for all tiers.

B. Tier 1 Customers Do Not Need a Manual Disconnect Switch Subsidy.

20. Exempting Tier 1 customers from installing a manual disconnect switch at their own expense results in yet another subsidy for Tier 1 customers. The cost of such a switch has been reasonably estimated to be as high as \$1,200 per switch. If Tier 1 installations were to total between 200 and 250 per year under the proposed rule amendment, the manual disconnect switch subsidy by the general body of customers could add up to between \$240,000 and \$300,000 per year. Tier 1 customers already enjoy numerous subsidies under this rule<sup>2</sup> and the additional subsidy of a free manual disconnect switch is unwarranted.

21. It should also be kept in mind these subsidies will be provided by customers who themselves cannot afford PV systems. Retirees, fixed and low income customers will be forced to pay more for their electricity to subsidize customers who can afford to install such systems.

22. Further, it is important to note that not all Tier 1 customers are individuals installing a small residential system. Instead, Tier 1 may also be utilized by sophisticated commercial customers, who install smaller Tier 1 systems to take advantage of the fee waivers, subsidies, and lack of insurance requirements in Tier 1. These customers should not be further subsidized, at the expense of other customers, by offering a manual disconnect switch at no cost.

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concerned about doing that as a disconnect switch in thinking it's safe and it's the customer power. It's not the customer power issue, it's a safety issue related to the meter." (Tr. 139).

<sup>2</sup> In addition to the subsidies provided by this rule, the Energy Policy Act of 2005 provides a 30% allowable tax credit for residential PV systems, up to \$2,000, and the Florida Renewable Energy Technologies and Energy Efficiency Act provides a rebate for residential PV systems (2 kW or higher) of \$4.00 per watt, up to \$20,000. This means that for a 4 kW PV system – generally costing between \$20,000 and \$30,000 – a consumer could receive state and federal rebates and tax credits totaling \$18,000.

23. Therefore, the Commission should revise Subsection (6)(a) to delete the exemption for Tier 1 customers, as outlined in Attachment A.

**V. THE FPSC SHOULD ADOPT THE IOUS' SUGGESTED AMENDMENTS**

24. Attachment A and the IOUs' previous comments outline the IOUs' specific alternative rule language for Subsections (6)(a), (8)(e)-(f) and (9). These proposed changes to the published amendment to Rule 25-6.065, F.A.C., are necessary changes to safeguard *all* customers of the IOUs and should be adopted.

Respectfully submitted,

s/ Susan F. Clark  
Susan F. Clark  
Fla. Bar No. 179580  
Radey Thomas Yon & Clark  
301 S. Bronough Street, Suite 200  
Tallahassee, Florida 32301  
(850) 425-6654 telephone  
(850) 425-6694 fax

**Attorney for the Investor-Owned Utilities**

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Comments of Investor Owned Utilities' has been furnished by electronic transmission or U.S. Mail this 25th day of January 2008 to the following:

Advanced Green Technologies  
Yann Brandt  
2100 N.W. 21<sup>st</sup> Ave.  
Fort Lauderdale, FL 33311

Fla. Dept. of Agric. & Consumer Services  
W. Ray Scott  
The Capitol (PL-10)  
Tallahassee, FL 32399-0810  
[scottra@doacs.state.fl.us](mailto:scottra@doacs.state.fl.us)

All Source Energy  
William Toth  
9220 Bonita Beach Road, Ste. 200-4  
Bonita Springs, FL 34135  
[wstoth@comcast.net](mailto:wstoth@comcast.net)

Florida Electric Cooperatives Association  
Michelle Hershel  
2916 Apalachee Parkway  
Tallahassee, FL 32301  
[mhershel@embarqmail.com](mailto:mhershel@embarqmail.com)

Atlas Solar Innovations Inc.  
Roy Ratner  
2280 NW 16<sup>th</sup> St.  
Pompano Beach, FL 33069  
[rr@atlas-solar.com](mailto:rr@atlas-solar.com)

Florida Industrial Cogeneration Assoc.  
Rich Zambo  
2336 SE Ocean Blvd., #309  
Stuart, FL 34996  
[richzambo@aol.com](mailto:richzambo@aol.com)

Dan Consulting Services, Inc.  
Steve Dan  
14707 S. Dixie Hwy., Ste. 207  
Miami, FL 33176  
[steve@danconsulting.com](mailto:steve@danconsulting.com)

Florida Solar Energy Industries Assoc.  
R. Bruce Kershner  
231 W. Bay Lane  
Longwood, FL 32750  
[bruce@flaseia.org](mailto:bruce@flaseia.org)

Electricity Link  
Charles Gillis  
723 Bryan Place  
Fort Lauderdale, FL 33312  
[cwgillis@bellsouth.net](mailto:cwgillis@bellsouth.net)

Florida Solar Energy Research/Education  
Coleen Kettles  
101 Cove Lake Drive  
Longwood, FL 32779  
[cmkettles@cfl.rr.com](mailto:cmkettles@cfl.rr.com)

Environmental Protection Agency  
Katrina Pielli  
Washington DC, DE  
[pielli.katrina@epa.gov](mailto:pielli.katrina@epa.gov)

Gordon Hansen  
[gordojean@msn.com](mailto:gordojean@msn.com)

Florida Alliance for a Clean Environment  
Bob Krasowski  
1086 Michigan Avenue  
Naples, FL 34103  
[Alliance4Cleanfl@aol.com](mailto:Alliance4Cleanfl@aol.com)

Mosaic Fertilizer, LLC  
Steven Davis  
P.O. Box 2000  
Mulberry, FL  
[Steve.Davis@mosaicco.com](mailto:Steve.Davis@mosaicco.com)

Florida Municipal Electric Assoc.  
Frederick Bryant  
P.O. Box 3209  
Tallahassee, FL 32315-3209  
[fred.bryant@fmmpa.com](mailto:fred.bryant@fmmpa.com)

Wilson Sonsini Goodrich & Rosati  
Jason Keyes  
701 5<sup>th</sup> Ave., Ste. 5100  
Seattle, WA 98104-7036  
[jkeyes@wsgr.com](mailto:jkeyes@wsgr.com)

National Renewable Energy Laboratory  
Michael Coddington  
1617 Cole Blvd.  
Golden, CO 80401-3393  
[Michael\\_Coddington@nrel.gov](mailto:Michael_Coddington@nrel.gov)

Network for New Energy Choices  
James Rose  
215 Lexington Avenue, Ste. 1001  
New York NY 10016

Orange County Env. Protection  
Hamp Pridgen  
800 Mercy Drive  
Orlando, FL 32808  
[Hamp.Pridgen@ocfl.net](mailto:Hamp.Pridgen@ocfl.net)

Sharp Solar, Sun Edison, Solar Alliance  
Chris O'Brien  
3395 Sentinel St.  
Boulder, CO 80301

Soil and Water Eng. Technology  
Del Bottcher  
3448 NW 12<sup>th</sup> Ave.  
Gainesville, FL 32605-4811  
[dbottcher@swet.com](mailto:dbottcher@swet.com)

Superior Solar Systems, Inc.  
Chris Maingot  
[chris@superiorsolar.com](mailto:chris@superiorsolar.com)

The Vote Solar Initiative  
Gwen Rose  
300 Brannan, Ste. 609  
San Francisco, CA 94107

Florida Public Service Commission  
Office of the General Counsel  
Cynthia Miller  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850  
[cmiller@psc.state.fl.us](mailto:cmiller@psc.state.fl.us)

Florida Public Service Commission  
Office of the General Counsel  
Rosanne Gervasi  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850  
[rgervasi@psc.state.fl.us](mailto:rgervasi@psc.state.fl.us)

s/ Susan F. Clark

Susan F. Clark

**ATTACHMENT A**  
**IOUs' Suggested Changes to Proposed Rule Amendment to Rule 25-6.065, F.A.C.:**

**Subsection (6)(a):**

(a) Each investor-owned utility's customer-owned renewable generation Standard Interconnection Agreement may require customers to install, at the customer's expense, a manual disconnect switch of the visible load break type to provide a separation point between the AC power output of the customer-owned renewable generation and any customer wiring connected to the investor-owned utility's system. ~~Inverter-based Tier 1 customer-owned renewable generation systems shall be exempt from this requirement, unless the manual disconnect switch is installed at the investor-owned utility's expense.~~ The manual disconnect switch shall be mounted separate from, but adjacent to, the meter socket and shall be readily accessible to the investor-owned utility and capable of being locked in the open position with a single investor-owned utility padlock.

**Subsection (9):**

~~(9) Renewable Energy Certificates. Customers shall retain any Renewable Energy Certificates associated with the electricity produced by their customer-owned renewable generation equipment. Any additional meters necessary for measuring the total renewable electricity generated for the purposes of receiving Renewable Energy Certificates shall be installed at the customer's expense, unless otherwise determined during negotiations for the sale of the customer's Renewable Energy Certificates to the investor-owned utility.~~