

BEFORE THE  
FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 070674-EI

In the Matter of:

PROPOSED AMENDMENT OF RULE 25-6.065,  
F.A.C., INTERCONNECTION AND NET  
METERING OF CUSTOMER-OWNED RENEWABLE  
GENERATION.



PROCEEDINGS:           AGENDA CONFERENCE  
ITEM NO. 2

BEFORE:                 CHAIRMAN MATTHEW M. CARTER, II  
COMMISSIONER LISA POLAK EDGAR  
COMMISSIONER KATRINA J. McMURRIAN  
COMMISSIONER NANCY ARGENZIANO  
COMMISSIONER NATHAN A. SKOP

DATE:                    Tuesday, March 4, 2008

PLACE:                   Betty Easley Conference Center  
Room 148  
4075 Esplanade Way  
Tallahassee, Florida

REPORTED BY:            JANE FAUROT, RPR  
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1 PARTICIPATING:

2                   ROSANNE GERVASI, ESQUIRE, and KAREN WEBB,  
3 representing the Florida Public Service Commission Staff.

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CHAIRMAN CARTER: Now we are ready for Issue 2.  
Staff, you are recognized.

MS. GERVASI: Thank you, Commissioner. Rosanne  
Gervasi with the Commission Legal Staff.

Item 2 concerns comments filed to the proposed  
amendment of Rule 25-6.065, Florida Administrative Code, on  
interconnection and net metering of customer-owned renewable  
generation.

Staff recommends that the Commission should not make  
the changes to the proposed rule as suggested by the  
investor-owned utilities in their comments. In Issue 1, staff  
recommends that the investor-owned utilities' request to  
participate on this item should be denied for the reasons  
expressed in Issue 1.

CHAIRMAN CARTER: Okay.

Commissioners, we are obviously moving on this rule.  
I'm inclined to agree with staff's recommendation on Issue 1,  
so let it just be among the Commissioners.

Staff, you're recognized.

MS. GERVASI: Thank you.

Do you have specific questions or would you like us  
to tee up Issue 2?

CHAIRMAN CARTER: Tee it up. Tee it high and let it  
fly.

1 MS. GERVASI: Issue 2 is the staff's recommendation  
2 that the Commission should adopt the proposed rule without the  
3 suggested changes. The IOUs have suggested changes to certain  
4 portions of the rule, including with respect to Subsection  
5 9 dealing with renewable energy certificates, the frequency of  
6 reconciliation, clarification on the demand charge application,  
7 which is a request to make a clarification in the order which  
8 the staff is willing and able to do, and also with respect to  
9 the manual disconnect switch and exemption from Tier 1 for that  
10 for certain Tier 1 customers.

11 CHAIRMAN CARTER: Thank you, staff.

12 Commissioners? Commissioner McMurrin, you're  
13 recognized.

14 COMMISSIONER McMURRIAN: Thank you, Chairman. I do  
15 have one question for staff on Page 6. I may have others  
16 depending on the discussion, but on Page 6 in the first full  
17 paragraph where it talks about basically that we have afforded  
18 similar treatment with respect to the standard offer contract  
19 rule, and I guess I have a little bit of concern with that  
20 comparison, because I'm not sure it is an exact -- it is not an  
21 equal comparison in my mind. And I guess to elaborate there,  
22 with respect to the TRECs there where we said they shall remain  
23 the exclusive property of the renewable generating facility, am  
24 I correct in remembering that in that case that we weren't  
25 exceeding avoided cost in any other part of that rule?

1 MS. WEBB: Commissioner, this is Karen Webb of staff.  
2 You are correct in that Rule 25-17.280, the net excess energy  
3 was not paid at more than the as-available rate.

4 COMMISSIONER McMURRIAN: Okay. Just to follow up on  
5 that, Chairman.

6 CHAIRMAN CARTER: Uh-huh.

7 COMMISSIONER McMURRIAN: I guess my concern is when  
8 we make those kinds of comparisons, maybe either we should  
9 elaborate further, maybe we just shouldn't -- for the sake of  
10 the order, I guess at some point I might want to discuss  
11 whether or not we don't use that second sentence of that  
12 paragraph, and maybe just say what staff's belief is.

13 MS. GERVASI: And if I might, and I'm sorry to  
14 interrupt, just to remind you that we won't be issuing an order  
15 much like the recommendation since it is a rule proceeding. It  
16 will just be a notice of adoption order with the clarification  
17 as requested by the IOUs, if the Commission agrees with that  
18 provision.

19 COMMISSIONER McMURRIAN: Okay. So let me just make  
20 sure I'm clear. So all this analysis in the staff  
21 recommendation just stays there, it doesn't get factored into  
22 the order?

23 MS. GERVASI: Yes, ma'am, that's correct.

24 COMMISSIONER McMURRIAN: Okay. Thank you. That's  
25 all for now.

1 CHAIRMAN CARTER: Commissioner Skop.

2 COMMISSIONER SKOP: Thank you, Chairman Carter.

3 And to Commissioner McMurrian's point. On that same  
4 rule, again, I was trying to find the definition to find out  
5 whether the rule under the net metering and interconnect, the  
6 term renewable generating facility that's in the Rule  
7 25-17.280, does that definition apply to the generation within  
8 the proposed rule that we are considering today?

9 MS. GERVASI: The short answer to that, I think, is  
10 no, because these are customer-owned generation systems that we  
11 are dealing with in this net metering rule as opposed to  
12 qualifying facilities.

13 COMMISSIONER SKOP: So you would agree, I guess, to  
14 Commissioner McMurrian's point that it's kind of apples and  
15 oranges, then?

16 MS. GERVASI: In that sense, yes, sir, I believe so.

17 COMMISSIONER SKOP: Thank you.

18 CHAIRMAN CARTER: I like apples and oranges.

19 Commissioner Edgar, any questions?

20 Commissioners, any further questions?

21 Commissioner Edgar, you're recognized.

22 COMMISSIONER EDGAR: Mr. Chairman, I note that we  
23 had -- I think I went back and looked, and the testimony was  
24 180-something pages from the discussion that we had with this  
25 rule in December when it came before us. So I know that we had

1 a lot of discussion then, a lot of questions, and made some  
2 changes at the time in response to some of the comments that we  
3 had, and some language changes, and at that point in time I  
4 noted how appreciative I was of people bringing actual language  
5 changes, too, in addition to their comments, because that is  
6 always very helpful when we are working with a rule here at the  
7 bench. Or a proposed rule, I guess I should say.

8           You know, I have read the petition or comments that  
9 were filed, and I realize that we are embarking a little bit  
10 into kind of a new area for this Commission, not completely,  
11 because we did have the rule that we had on the books before,  
12 but we are, in my words, maybe expanding it and going into kind  
13 of some different areas. And I'm excited about it, and I'm  
14 excited about the incentives that I think are built into the  
15 way this proposed rule is structured.

16           I note that we had a lot of discussion on the  
17 renewable energy certificates portion, again, back in our  
18 meeting in December, and I do think that there certainly is  
19 more than one way to look at that particular issue. But  
20 realizing that some of the other things, the RPS and some other  
21 things related to that are still in the state of discussion and  
22 early, early kind of incipient policy-making, that where we  
23 stand today I am comfortable with the language that is before  
24 us. And I recognize that certainly if there were to be  
25 statutory changes at either the state or the federal level, or

1 other orders of ours that maybe could impact, that we would  
2 have the opportunity certainly to review and make changes  
3 accordingly.

4 And, so with those comments, if it is appropriate, I  
5 would make a motion in support of the staff recommendation and  
6 the language going forward to implementation as is.

7 CHAIRMAN CARTER: And that would be the motion for  
8 all issues in toto?

9 COMMISSIONER EDGAR: Yes, sir.

10 CHAIRMAN CARTER: Commissioner Skop, you're  
11 recognized.

12 COMMISSIONER SKOP: Thank you, Chairman Carter.

13 Again, I think I probably would be in favor of  
14 seconding that, but I just want to bring forth some additional  
15 comments with respect to the proposed rule.

16 First and foremost, I think it's important for the  
17 PSC to lead by example, and I think that rule shows our  
18 dedication to doing exactly that. Secondly, the proposed rule  
19 is good for consumers and should be implemented without any  
20 further delay. And, again, there is pending legislation which  
21 might make our rule obsolete, but we can't control that. But,  
22 again, leading by example, I think, puts a solid framework in  
23 place showing the leadership of the PSC in tackling this issue.

24 With respect to some prior comments, though, I do  
25 want to address some issues. In the staff recommendation, we



1 did speak extensively to the issue of renewable energy credits.  
2 Again, at the sake of being redundant, I did think it was  
3 premature to introduce RECs into the rule without the proper  
4 vetting of the ownership interest, it is up to the issues and  
5 the RPS considerations. Again, I accepted the will of the  
6 majority. I didn't want to hold the rule up then, and I'm not  
7 going to hold it up now. The RECs were not the subject of a  
8 Commission workshop prior to being incorporated into the rule.

9           There are, depending upon how you look at it,  
10 multiple layers of subsidies, and I just want to kind of get to  
11 the issue real quickly, and then get out of it, to make some  
12 points. Because, again, I think the jury is still out on this  
13 question. But on Page 6 of the staff recommendation, the  
14 second full paragraph, staff states that IOUs do not have  
15 exclusive claim of ownership for any REC. I don't think that  
16 the IOUs ever claimed exclusive claim of ownership. I think  
17 the IOU position, whatever they were advocating, and mine was  
18 on separate and distinct grounds, was that it was premature to  
19 get into this discussion without a proper vetting.

20           The next paragraph below that on Page 6 where it  
21 speaks to the discussion of the states and benchmarking off  
22 what different states have done, the phrase "one state assigns  
23 ownership of all RECs to the customer if the customer paid all  
24 the cost associated with purchasing and installing renewable  
25 generating equipment with no financial assistance from the

1 utility," that is exactly the point I was making. I mean,  
2 different instances, again, the state subsidies, and other  
3 subsidies pay for approximately half the cost of the arrays in  
4 some cases. And so, again, without a proper vetting of that, I  
5 think it was a little bit premature to get into that  
6 discussion.

7           But the other part that I just wanted to talk about  
8 is the staff comment on Page 6 in the paragraph right below  
9 that where it states that the cost of metering equipment  
10 required to certify the RECs that are retained by the customer  
11 should be borne by that customer, and this provision provides a  
12 compromise between incenting renewable generation and ratepayer  
13 protection. I have somewhat of an issue with that, because  
14 that's a point that I tried to make, and I wanted to reiterate  
15 briefly.

16           And if I could be permitted, and I need to do my  
17 computer, I was wondering if staff has taken a look at the cost  
18 of that meter and the payback on that meter. And, again, just  
19 quickly I'll put this into prospective, because assuming for  
20 the sake of discussion, and I'm going to use a prototypical  
21 array, that you have eight hours of sunlight a day, the  
22 capacity of the array would be 10 kilowatts, 30 days in a  
23 month, you generate approximately 2,400-kilowatt hours per  
24 month. That would equate to 2.4 RECs.

25           Assuming the cost of a voluntary REC was 3.25, and I

1 have got numbers for higher costs, the monthly value of the REC  
2 before taxes would be \$7.80. The after tax value of the REC,  
3 assuming a 33 percent tax rate, would be \$5.15 per month, and  
4 the annual value of the REC to the consumer would be \$61.78 per  
5 month, subject to check or whatever the numbers would be.

6           Assuming for the sake of the discussion that the cost  
7 of the meter was \$300 to certify these RECs, the payback period  
8 before the consumer would see any benefit would be  
9 approximately five years. If the cost of the meter was \$1,200,  
10 it would be 19 years, and if the cost of the meter was \$750, it  
11 would be approximately 12 years.

12           So, again, I have some concerns. And, you know,  
13 perhaps something could be put in the order that would allow us  
14 to go back and take a look now. But, again, I went with the  
15 will of the majority back then. I'm firmly in support of  
16 making good policy. I do think it was premature to kind of get  
17 in this. I know Commissioner McMurrian kind of had the same  
18 concerns. But, again, embracing the will of the majority and  
19 noting that it's important for the PSC to lead by example, I  
20 think that the proposed rule that we have before us is an  
21 extremely good one. I stand by it. But I just wanted to point  
22 out the perils of perhaps making a decision in isolation,  
23 because that can be dangerous and result in bad policy.

24           But the rule before us is a good one, and, again, I  
25 think it should be implemented without further delay. And with

1 that I would like to second Commissioner Edgar's motion.

2 CHAIRMAN CARTER: Thank you, Commissioner, for your  
3 second.

4 Commissioners, any further discussion? We have a  
5 motion and a second.

6 Commissioner McMurrian, you're recognized.

7 COMMISSIONER McMURRIAN: Thank you, Chairman.

8 Commissioner Skop has definitely characterized my  
9 earlier comments correctly. And I thought it was important,  
10 maybe, to share a little bit about what my concerns are a  
11 little bit further about RECs, just before -- I totally agree  
12 with the motion and the second, and I think that we should move  
13 forward with this rule, but I know that there were some groans  
14 when we talked about this at the last point.

15 In the rec in Page 5 there is some discussion that  
16 talks about the generating customer receiving a second benefit  
17 at the ratepayers' expense. That is what my concern is, is  
18 that in trying to promote renewable generation we are stepping  
19 outside of a true -- you know, maybe the cost/benefit  
20 comparison we normally use, and that we have done some things  
21 to add some incentives.

22 I was a little bit concerned on the renewable energy  
23 certificates, and not knowing, really, what the right answer is  
24 at this point because we have so many things ahead of us, I  
25 think, with regard to how this policy plays out. I felt like

1 it was best not to make a decision not to include that in our  
2 rule, as well. But, I, too, agree with the will of the  
3 majority, and I think that, again, it is important to promote  
4 renewable generation. And some have argued that this piece is  
5 a very necessary piece to make it all work, and I just don't  
6 know the answer to that. But, again, I am willing to go along  
7 with the will of the majority.

8 I would say that for my own purposes that if evidence  
9 seems to mount over time as we put this rule into place that  
10 there is some excessive subsidization, and I don't know what  
11 excessive is, but if utilities somehow see that this has  
12 excessive consequences on the general body of ratepayers and  
13 they bring forward more information for us at that time, and  
14 perhaps the renewable policy will be more nailed down at that  
15 time, that I think that I would be in favor of looking at that  
16 further at that time. But for now, I think that we're doing  
17 the right thing in proposing this rule, and I definitely  
18 support the motion and second. Thank you.

19 CHAIRMAN CARTER: Thank you, Commissioner.

20 Commissioner, do you have a comment? Commissioner  
21 Skop had a comment.

22 COMMISSIONER SKOP: Thank you, Chairman Carter.

23 Again, I just wanted to point out that while, you  
24 know, giving the RECs to the consumer in accordance with the  
25 rule is a good thing, that that requires the consumer to

1 purchase a second meter to track and sell those RECs,  
2 apparently. And, again, that costs the consumer additional  
3 money, so that was just the point I was making.

4 I think it is a good thing, but, again, I don't think  
5 it was completely fully vetted before it was brought into this  
6 rule, and I think that had we had the opportunity to do that we  
7 might have been able to, perhaps, come up with an optimal  
8 solution that we are not at today.

9 But, again, I do think it is important for us to lead  
10 by example, and the proposed rule is good for consumers should  
11 they wish to undertake the pretension of the RECs. And, again,  
12 I fully support the direction we are going. Thank you.

13 CHAIRMAN CARTER: Thank you.

14 Commissioner Edgar.

15 COMMISSIONER EDGAR: Thank you, Mr. Chairman.

16 Just a final comment, from me anyway, that similar to  
17 what Commissioner McMurrian said, I look forward to the  
18 opportunity to have much more discussion as we move forward on  
19 related policies and see how this rule is working and hear from  
20 people who hopefully are utilizing it as we continue to look at  
21 renewable energy and alternative energy and related issues in  
22 the future.

23 CHAIRMAN CARTER: Commissioners, any further  
24 comments?

25 Hearing none, we have before us a motion to adopt

1 Issue 2 in toto. It has been properly seconded. All in favor  
2 let it be known by the sign of aye.

3 (Unanimous affirmative vote.)

4 CHAIRMAN CARTER: Those opposed, like sign.  
5 Show it done.

6 MS. GERVASI: And, Commissioners, if I may, just for  
7 clarification, you have also approved Issues 1 and 3 of the  
8 recommendation, as well?

9 CHAIRMAN CARTER: Absolutely.

10 MS. GERVASI: Thank you.

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STATE OF FLORIDA )  
  
COUNTY OF LEON )

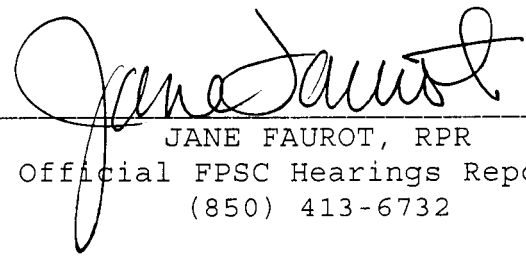
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I, JANE FAUROT, RPR, Chief, Hearing Reporter Services Section, FPSC Division of Commission Clerk, do hereby certify that the foregoing proceeding was heard at the time and place herein stated.

IT IS FURTHER CERTIFIED that I stenographically reported the said proceedings; that the same has been transcribed under my direct supervision; and that this transcript constitutes a true transcription of my notes of said proceedings.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED THIS 10th day of March, 2008.



\_\_\_\_\_  
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