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September 3, 2008

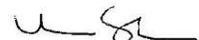
Office of Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Re: Docket No. 080503-EI
In re: Establishment of Rule on Renewable Portfolio Standard
Comments of Clean Energy Group

Dear Commissioners:

Enclosed please find the comments of Clean Energy Group regarding proposed Rule 25-17.400, Renewable Portfolio Standard and Rule 25-17.410 Florida Renewable Energy Credit Market, and recommended rule language revisions inserted in the Rule Draft 8/11/08.

Sincerely,



s/ Mark Sinclair
Vice President
Clean Energy Group

Attachments: Comments of Clean Energy Group
Draft Rule – Recommended Revised Language

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

**IN RE: Establishment of Rule on Renewable
Portfolio Standard**

Docket No. 080503-EI

COMMENTS OF CLEAN ENERGY GROUP ON DRAFT RPS RULE

Clean Energy Group (CEG) submits these comments on the Commission's proposed Rule 25-17.400, F.A.C, Renewable Portfolio Standard (RPS) and Rule 25-17.410, Florida Renewable Energy Credit Market. CEG also encloses proposed amended language to Staff Rule Draft 8/11/08. CEG's comments are based on lessons learned and best practices from other state RPS laws to ensure effective RPS design and implementation success.

CEG is a national nonprofit organization working in the United States and internationally on technology, finance and policy programs in the area of clean energy. CEG works with states across the country to advance the success of RPS programs. Specifically, with funding from the U.S. Department of Energy, CEG has established and is facilitating a state-federal RPS collaborative with state RPS administrators and regulators, federal agency representatives, and other RPS stakeholders to advance dialogue and learning about RPS programs. This multi-state RPS collaborative is examining the challenges and potential solutions for successful implementation of state RPS programs, including identification of best practices. The initiative is distilling lessons from state RPS experience that could be useful in the design of a Florida RPS.

Low RPS Targets

If adopted, the proposed Florida RPS Rule's targets would be the least stringent among the 26 states with RPS laws. The modest standards proposed in Rule 17.400 (3)(a) also contrast with the trend occurring in most RPS states to increase the stringency of renewable energy targets and realize the full potential from renewable resource economic development.

In recent years, many states have increased their RPS requirements. Since 2003, fourteen states have amended their RPS to raise RPS targets. In 2007 alone, eleven states made substantial modifications to their RPS programs to increase pre-existing RPS targets, to remove supplier exemptions and to add solar specific set-asides. Illustrative of this national trend, in 2007, Delaware increased its RPS from 10% in 2009 to 20%. *See Wisner & Barbose, LBNL, Renewable Portfolio Standards in the U.S.: Status Report with Data Through 2007 (April 2008)*

The following states have established significantly more aggressive targets than those proposed in Florida's draft Rule¹:

- Arizona: 15% by 2025

¹ Of course, these numbers have very different implications for renewable energy generation in each state due to the differing definitions of resource eligibility and the treatment of existing resources.

- California: 20% by 2010
- Colorado: 20% by 2020
- CT: 23% by 2020
- Delaware: 20% by 2019
- HI: 20% by 2020
- Ill: 25% by 2025
- Maine: 40% BY 2017
- Maryland: 9.5% by 2017
- MN: 25% by 2025
- MT: 15% by 2015
- Nevada: 20% by 2015
- NH: 23.8% by 2025
- NJ: 22.5% by 2021
- NM: 20% by 2020
- NY: 24% by 2013
- NC: 12.5% by 2021
- Oregon: 25% by 2025
- PA: 8% by 2020
- RI: 16% by 2019
- TX: 5880 MW by 2015
- WA: 15% by 2020
- WI: 10% by 2015

The Florida draft Rule’s low target likely is based on concerns about potential cost and rate impacts.² However, recent analysis by Lawrence Berkeley National Laboratory (LBNL) indicates that the expected bounds of likely rate impacts from state RPS laws are modest. LBNL, which works closely with CEG, recently synthesized the results of 28 distinct state and utility level cost impact analyses completed since 1998, examining RPS costs and rate impacts in 18 RPS states. *The key findings show that the projected rate impacts of RPS laws are generally and relatively modest. See Chen, Wisner & Bolinger, Weighing the Costs and Benefits of State RPS: A Comparative Analysis of State-Level Policy Impact Projections* (March, 2007). And when these electricity cost impacts are combined with possible state RPS-induced natural gas price reductions and corresponding gas bill savings, the overall cost impacts are even smaller. According to the LBNL analysis,

Projected rate impacts are generally modest. Seventy percent of the state RPS cost studies in our sample [predict] base-case retail electricity rate increases of no greater than one percent in the year that each modeled RPS policy reaches its peak percentage targets. In six of those studies, electricity consumers are expected to experience cost *savings* as a result of the state RPS policies being modeled. On the other extreme, nine studies predict rate increases above 1%, and two of these studies predict rate increases of more than 5%. Though most of the studies

² The difference between renewable energy costs (busbar and secondary) and the cost of conventional power that would otherwise be used to meet load (avoided costs) determines the projected rate impacts of state RPS policies.

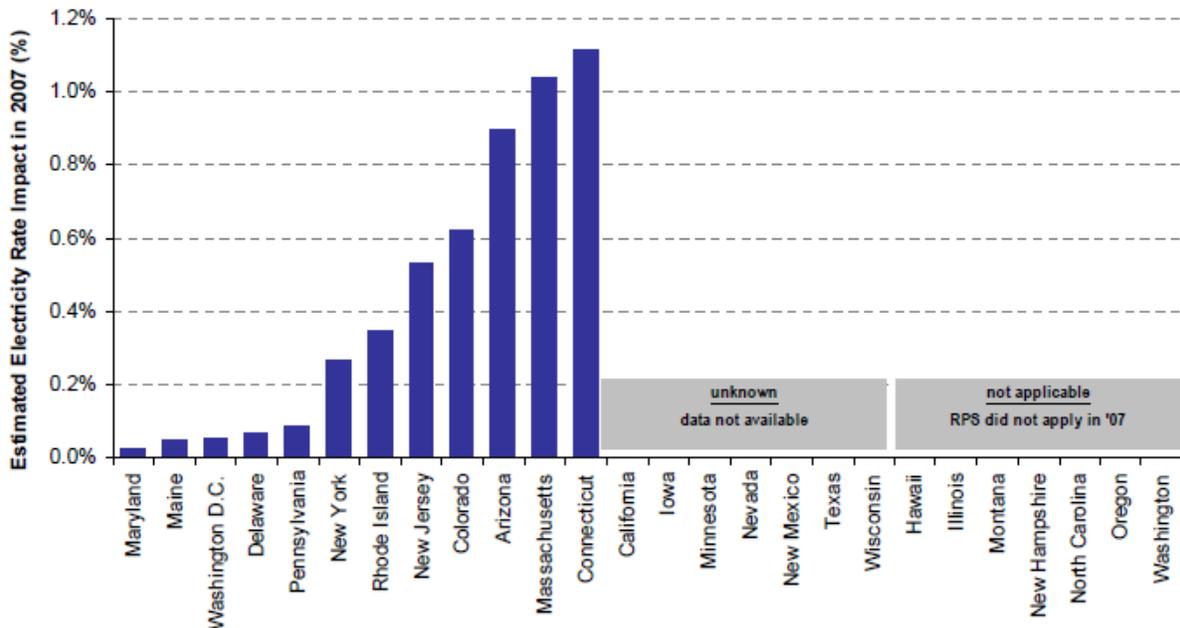
project relatively limited impacts on retail electricity rates, the wide range of impacts ... underscores the large variability among the studies' results. When translated to monthly electricity bill impacts for a typical residential customer, these impacts range from a savings of over five dollars per month to an increase of over seven dollars per month. However, the median bill impact across all of the studies in our sample is an increase of only \$0.38 per month.

Id. at i-ii (emphasis in original)³

In its most recent 2008 RPS report, LBNL again confirms that the price impacts of state RPS policies have been modest in most cases so far. *See* Wisner & Barbose, LBNL, *Renewable Portfolio Standards in the U.S.: Status Report with Data Through 2007* (April 2008).

Though the results vary across states, in most cases, rate increases are estimated at 1% or less in 2007. Moreover, the rate impacts shown here may, in some states, be biased upwards due to at least two factors: (1) longer-term REC contracts are likely to be priced below the short-term REC prices used for these calculations, and (2) the rate estimates presented here ignore the potential impact of renewable energy in reducing natural gas and wholesale electricity prices.

Id. at 29. The following graph is an excerpt from the LBNL report, and illustrates estimated rate impacts of state RPS policies in 2007.



³ LBNL found that these rate impact studies appear to have substantially underestimated natural gas prices, which are perhaps the most important input to the avoided cost estimates of the RPS studies. Current natural gas prices are much higher than assumed by the studies. *Id.* at iv.

Id.

The LBNL 2008 report also found that, in a number of states, there is evidence that the renewable energy contracted in recent years has been priced competitively with conventional sources of generation. *Id.* at 30. In California, for example, the majority of the renewable electricity bought under contract by the state's utilities since 2002 has been signed at prices that are below the market price referent – the estimated cost of new gas-fired generation. *Id.*

Establish Robust Enforcement Mechanism

The more effective RPS policies in the U.S. include noncompliance penalties, either in the form of fines or alternative compliance payments (ACP). However, the proposed Florida Rule does *not* provide for penalties or alternative compliance payments to ensure credible and effective enforcement. The lack of enforcement provisions has proven to be a major design and implementation flaw in other state RPS programs. The final Florida Rule should provide for an automatic noncompliance penalty or alternative compliance payment to ensure a strong RPS program.

Proposed Rule Amendment

Rule 17.400 (2) Definitions

(1) “Alternative Compliance Payment” means a payment of a certain dollar amount per megawatt hour, which an investor-owned electric utility may submit in lieu of supplying the minimum percentage of renewable energy credits or Florida renewable energy resources required under Rule 17.400(3)

Rule 17.400 (4) Compliance

- (a) An investor-owned electric utility may discharge its obligations under the renewable portfolio standard, in whole or in part, for any compliance year by making an alternative compliance payment (ACP) to the Florida Renewable Energy Development Fund established and administered by the Florida Energy and Climate Commission.
- (b) The ACP rate shall be \$50 per MWh for compliance year 2011. For each subsequent compliance year, the Commission shall publish the ACP rate by January 31st of the compliance year. The ACP rate shall be equal to the previous year's ACP rate adjusted up or down according to the previous year's Consumer Price Index.
- (c) The Florida Energy and Climate Commission shall oversee the use of ACP funds to support the development of new renewable energy resources in Florida.
- (d) The Florida Energy and Climate Commission shall file a report with the Commission each year to account for use of all available funds, including the number and type of projects funded, the uncommitted balance of the ACP Fund, and renewable energy credits generated from projects funded.
- (e) An investor-owned electric utility may recover any alternative compliance payment if:
 1. the payment is the least cost measure to ratepayers as compared to purchase of eligible resources or renewable energy credits to comply with the renewable energy standard; or
 2. there are insufficient eligible energy resources to comply with the standard.

In 2004, Berkeley National Lab conducted a formal examination of state experiences with RPS programs across the United States. LBNL found that credible and effective enforcement is critical to RPS success. *See* Wisner, Porter & Grace, *Evaluating Experience with RPS in the U.S.* (March, 2004). According to LBNL,

An effective RPS must typically be mandatory and impose repercussions on those Load Serving Entities that fail to meet the specified renewable energy purchase mandates. Only with credible enforcement will state policymakers ensure that the RPS is met, will renewable developers know that their efforts are not in vain, and will financiers understand the risk of their investments.

Id. at 12.

Specifically, LBNL's study found that some states do not adequately enforce their RPS policies. Arizona provides an illustrative example with relevance to Florida's proposed Rule. With no penalties for non-compliance, the Arizona utilities largely opted to comply with the policy only up to the amount of funds that were specifically collected with specified ratepayer surcharges to help fund the RPS. With lack of enforcement, full RPS compliance in Arizona has not been achieved, with compliance well below 50% since 2003. *Id.*

According to LBNL's recommendations for "Policy Design Principles and Best Practices for RPS", an effective RPS must be enforceable, ensuring that the policy's renewable energy targets are achieved. *Id.* at 28. LBNL determined that a successful RPS program will include the following design elements:

- Establish clear rules for enforcement in cases of non-compliance to provide confidence to renewable energy developers that electricity suppliers will make their required purchases.
- Give consideration to alternative compliance mechanisms, in which suppliers are given the opportunity to pay a set price into a fund in lieu of procuring renewables to offer a less punitive approach to enforcement.
- In regulated markets, ensure that there are clear implications for noncompliance obligated utilities will take the requirements seriously.

Id. at 28.

Based on LBNL assessment of state RPS experiences to date, it is apparent that the success of a Florida RPS program will depend on establishing a robust enforcement mechanism. States today are using a variety of enforcement options to ensure that RPS targets are met. The most popular option is an alternative compliance payment. The states of Maine, Massachusetts, New Hampshire, New Jersey, Rhode Island, Delaware, Maryland, Oregon, and Washington D.C. use ACPs. If recoverable in rates, an ACP provides utilities with an effective means of complying with an RPS rather than procuring renewable generation or RECs, and makes the need for explicit penalties moot.

CEG recommends that the Florida Rule include an ACP that requires utilities to pay a pre-determined amount per kWh if they fall short in meeting RPS targets. An ACP system has merit because it still allows utilities to report compliance with the RPS rather than being penalized.

The ACP funds collected should be used to support new renewable energy development. The Florida Rule should provide that the funds from noncompliance payments be used as a contribution to a Fund dedicated to support and promote Florida renewable resources and projects. The Fund could be administered by the Florida Energy and Climate Commission. Many states, including Rhode Island, Maryland, and Massachusetts, have established alternative compliance payment systems with the money devoted to newly-created, state-administered renewable energy development funds.

To be effective, the Florida ACP should reflect the cost of compliance and be set at a level of at least \$50 per MWh. The payments certainly should be set at a level significantly higher than the estimated compliance cost for procuring RECs if additional generation is to be encouraged. If the payments are set significantly below the cost of compliance, the utilities will choose not to comply and the RPS program will be rendered less effective.⁴

Examples of state RPS ACP levels:

- DE: \$25/MWh 1st year, \$50 MWh 2nd year, \$80/MWh subsequent years
- ME: \$57/MWh, adjusted annually for inflation
- NH: \$57/MWh, adjusted annually for inflation
- MD: \$20/MWh
- MA: \$50/MWh
- NJ: \$50/MWh
- PA: \$45/MWh
- RI: \$50/MWh
- OR: PUC establishes each year

Commission staff states that it does not believe that Section 366.92 F.S. provides the Commission with the express authority to establish ACPs or penalties to fund the development of additional renewables in the RPS rule. CEG respectfully disagrees as HB 7135 states explicitly that the Commission rule “shall provide for appropriate compliance measures and the conditions under which noncompliance shall be excused ...” Section 366.92(3)(b)2.

⁴ The State of Maryland provides a case in point. According to the recent *Maryland Strategic Energy Plan (2008)*, a major reason that the current RPS is not expected to stimulate significant new renewable generation is the relatively low ACP, now set at \$20 per MWh. According to the Maryland Energy Administration,

Like all laws, Maryland’s RPS cannot be effective if the penalties for non-compliance are too low.

* * *

Maryland’s RPS is generally considered ineffective due to ... relatively modest targets and low penalty provisions. To enhance the effectiveness of Maryland’s RPS, the Maryland Energy Administration recommends ... increasing the Tier 1 requirement in 2022 to 20 percent ... and increasing the Alternative Compliance Payment to \$40 per megawatt hour.

Id. at 4, 50.

This statutory language would seem to *mandate* that the Rule include a specific compliance enforcement mechanism such as an ACP. The statutory language clearly provides the Commission with broad discretion to evaluate, select and establish the most “appropriate” compliance approach to ensure that the goals of the RPS are met. Based on state experience, a well-designed ACP is a proven and effective compliance measure. Establishing an ACP is within the Commission’s authority under the broad language of Section 366.92. Further, since the draft Rule must be submitted to the Legislature for consideration and ratification, the Legislature will have an opportunity to clarify if this ACP mechanism is within the authority of the Commission

Low Cost Cap

The draft Rule recommends a cost cap of one percent of annual retail revenues to protect ratepayers from undue rate impacts. Because of uncertainty about the future costs of RPS policies, states have developed a variety of approaches to limit the maximum impact of these policies on electricity rates. Common approaches include ACPs that can be made in lieu of purchasing RECs, direct retail rate caps, renewable energy funding caps, per customer electric bill impact limits, and financial penalties that can serve as cost caps in certain circumstances.

Rather than the 1% retail revenue cap, CEG recommends that the Florida Rule use the ACP mechanism as the appropriate approach to contain costs while ensuring the development of new RE projects through use of ACP revenues to fund projects.

As currently proposed, the draft Rule’s retail revenue cap of 1% appears to be the lowest such cap being employed by any RPS state, and could limit the ability of the Rule to promote renewable energy facility development and meet RPS targets. To contrast the proposed Florida Rule’s 1% cap, listed below are the retail rate caps used by other RPS states that employ this particular approach:

- CO: 1.7% maximum effective retail rate increase
- IL: 1.4%
- MD: 2.1%
- NM: 1.8%
- OR: 4%
- WA: 4%

Lack of Express, Long-term Contracting Standards Will Harm RPS Effectiveness

The proposed Rule should include a provision that establishes express long-term contracting standards for the utilities, with sufficient regulatory oversight to ensure prudent compliance. This contracting recommendation is based on the best practice recommendations of Berkeley National Lab based on its formal examination of state experiences with RPS programs. *See* Wisner, Porter & Grace, *Evaluating Experience with RPS in the U.S.* (March, 2004) at 29.

RPS implementation experience to date has demonstrated that renewable energy development has been most successful where developers have been able to secure long-term contracts with creditworthy counterparties. The most successful RPS states expressly require utilities to sign

long-term power purchase contracts with eligible renewable energy developers. In states where short term trade in RECs is predominant over long-term contracting, RPS policies appear to be more costly and unstable. Where long-term contracts are available or required, RPS policies have been more successful. *See Cory & Swezey, RPS in the States: Balancing Goals and Implementation Strategies (2007).*

States with contracting requirements include:

- CA: 10+ years
- CO: 20+ years
- CT 100 MW for 10 years
- Iowa: Own project or sign long-term contract
- MD: 15+ years for solar only
- MT: 10+ years
- NV: 10+ years
- NC: “sufficient length” for solar
- PA: “good faith effort” including “seeking long-term contracts”

Proposed Rule Amendment:

17.400, add (7) Resource Acquisition

- (a) It is the Commission’s policy that utilities should meet the renewable energy standard in the most cost-effective manner. To this end, the investor-owned utilities shall use competitive bidding for acquiring renewable energy from eligible energy resources.
- (b) Whenever a utility acquires renewable energy and/or RECs by competitive acquisition, to the extent possible, the solicitations and evaluations of proposals should be coordinated to avoid redundancy and to minimize the cost of acquiring eligible resources or renewable energy credits.
- (c) A utility may conduct, in its discretion, separate solicitations or combined solicitations, for any eligible Florida renewable energy resources and/or renewable energy credits.
- (d) The investor-owned utility may apply to the Commission, at any time, for review and approval of renewable energy supply contracts and renewable energy credit contracts. The Commission will review and rule on these contracts within sixty days of their filing. The Commission may set the contract for expedited hearing, if appropriate.
- (e) Renewable energy supply contracts entered into to meet the renewable portfolio standard shall be for the acquisition of renewable energy and the associated renewable energy credits; shall have a minimum term of 20 years (or shorter at the sole discretion of the seller); and shall require the seller to relinquish all renewable energy credit ownership associated with contracted renewable energy to the buyer.

- (f) Renewable energy credit contracts that are entered into to meet the renewable portfolio standard shall be for the acquisition of renewable energy credits only and shall have a minimum term of 20 years (or shorter at the sole discretion of the seller).
- (g) Competitive solicitations for the acquisition of solar renewable energy credits may be conducted by each investor-owned utility as needed to comply with the renewable energy standard.
- (h) Each competitive solicitation pursuant to these rules shall be targeted toward acquiring the amount of eligible energy required for compliance with each component of the renewable energy standard.
- (i) Each investor-owned utility shall provide all parties to the bid process timely notice of bidding procedure.
- (j) Each investor-owned utility shall disclose, at the Commission's request, all information that will be used in the acquisition process, including but not limited to, interconnection and transmission studies, and methods for modeling or otherwise analyzing bids. Confidential information may be protected in accordance with Commission rules.
- (k) If the investor-owned utility intends to accept proposals for eligible energy resources from the utility or from an affiliate of the utility, it shall include a written separation policy and name an independent auditor whom the utility proposes to hire to review and report to the Commission on the fairness of the competitive acquisition process. The independent auditor shall conduct an audit of the utility's bid solicitation and evaluation process to determine whether it was conducted fairly. Within 60 days of the utility's selection of final resources, the independent auditor shall file a report with the Commission containing the auditor's views on whether the utility conducted a fair bid solicitation and bid evaluation process, with any deficiencies specifically reported.
- (l) Responses to competitive solicitations shall be evaluated and ranked by the investor-owned utility.
- (m) In addition to the cost of the renewable energy and credits, the utility may take into consideration the characteristics of the underlying eligible energy resource that may impact the ability of the bidder to fulfill the terms of the bid including, but not limited to project in-service date, resource reliability, viability, economic development benefits, energy security benefits, amount of water used, fuel cost savings, environmental impacts including tradable emissions allowances savings, load reduction during higher cost hours, transmission capacity and scheduling, and any other factor that is relevant to the utility's needs.
- (n) A utility is not required to accept any bid and may reject any and all bids offered. However, each solicitation shall culminate in a report detailing the outcome of the solicitation and identifying which bids were selected, which were rejected, and why.
- (o) For purposes of comparing bids for renewable energy credits only with bids for electricity and credits, the utility shall assign a value for the electricity and subtract this value from the

electricity and credits bid, and evaluate bids on the basis of the renewable energy credits only.

- (p) Upon ranking of eligible bids, each investor-owned utility shall within 15 days indicate to all respondents with which proposals it intends to pursue a contract.

Differential Support for Solar and Distributed Generation

CEG recommends that the Florida RPS include differential support for solar technologies and distributed generation (DG). According to recent LBNL research, RPS policies with no such differential support for solar are unlikely to provide meaningful support to customer-sited or utility-scale photovoltaics.

However, there is less need for preferential support for wind technology. In fact, “utility-scale”, onshore wind is already the dominant technology being deployed to meet state RPS requirements because of its lower costs in contrast to solar and distributed generation. From 1998 through 2007, 93% of the renewable energy capacity additions in the U.S. that occurred in RPS states came from wind, while only 2% came from solar and 1% from geothermal. *See Wisner & Barbose, LBNL, Renewable Portfolio Standards in the U.S.: Status Report with Data Through 2007* (2008). Therefore, any preference in the Florida Rule should be directed primarily to solar and distributed resources (and possibly to higher cost wind deployment such as offshore wind).

CEG recommends that the Commission use a set-aside rather than a multiplier. Multipliers have proven to be a less effective tool to support solar technologies. LBNL analysis has found that states that use credit multipliers – Washington, Delaware, Maryland and New Mexico – have seen no real impact on solar deployment to date, and no impact is expected. This partly reflects the fact that credit multipliers have not been large enough to spur heightened interest. It also reflects the fact that customer-sited solar projects face solicitation barriers due to their small individual size. Therefore, it appears that for an RPS to significantly benefit solar technologies, a solar share requirement is necessary. *See Wisner & Barbose, LBNL, Renewable Portfolio Standards in the U.S.: Status Report with Data Through 2007* (April 2008).

Set asides for solar or distributed generation now exist in 12 of the 26 state RPS programs.⁵ Because of the value that solar and distributed generation provide to reduce peak loads, emissions, and load congestion, CEG recommends that the Rule establish solar and DG set-asides for solar PV, solar thermal electric, solar heating and cooling, and non-PV distributed generation.

CEG further recommends that the Florida RPS program include provision of significant, long-term solar financial incentives to customers through use of a system benefit charge or tariff. Sizable solar markets typically exist in those states that have solar set-asides in their RPS policies combined with solar incentive programs. Because solar energy remains relatively expensive when compared to other renewable energy technologies, most of the states with solar

⁵ RPS programs that include solar/DG set-asides include Arizona, Colorado, Delaware, Maryland, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, Ohio, Pennsylvania and Washington.

set-asides also offer financial incentives to assist with solar compliance. For example, New Jersey offers a rebate for customer-owned solar systems ranging from \$3.80 to \$4.40/W. Similarly, Colorado's RPS requires utilities to offer customers \$2.00/W for the installation of eligible solar generation on a customer's premises, and another \$2.50/W to compensate customers for the solar REC that the utility then applies toward RPS compliance.

Proposed Rule Amendment for Solar Preference

Revise Rule 14.400(3)(b)

(b) Of the eligible renewable energy amounts specified, each investor-owned utility shall derive at least 25% percent from solar thermal and photovoltaic technologies and distributed generation projects. At least one-half of this percentage shall be derived from on-site solar systems located in residential applications.

(c) Standard Solar Rebate Offer. Each investor-owned utility shall make available to its retail electricity customers a standard rebate offer of \$4.00 per watt for on-site solar systems, up to a maximum of 100 kW per system. Any solar renewable energy credits acquired by the utility pursuant to such program may be counted by the utility for purposes of compliance with the renewable energy standard. In order to receive the rebate payment, the customer must enter into an agreement with the utility, with a minimum term of 20 years, which transfers the solar renewable energy credits generated by the on-site solar system during the term of the agreement from the customer to the utility.

Renewable Energy Tracking System

States have determined that the use of electronic certificate tracking systems to issue, record, track and retire RECs is integral to the robust functioning of a REC market. An effective tracking system must be impartial and market-based. Therefore, CEG recommends that the Commission retain direct responsibility for creating, assisting in administering, and overseeing a tracking system to serve the Florida RPS.

Proposed Rule Amendment:

17.410 Florida Renewable Energy Credit Market.

(1) The Commission shall establish, maintain, or participate in a market-based, electronic renewable energy tracking system to facilitate the creation and transfer of renewable energy credits among investor-owned electric utilities. The renewable energy credit market shall allow for transparent production, buying, selling, and trading of renewable energy credits used to comply with the renewable portfolio standards of Rule 25.17.400. The renewable energy tracking system shall include a registry of information regarding all available renewable energy credits and renewable energy credit transactions among electric utilities. The registry shall provide current aggregated information to electric utilities and the public on the status or renewable energy credits created, sold, or transferred in the State. 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) The Commission may contract with a for-profit or a nonprofit entity, to develop, administer, and maintain the renewable energy tracking system required by this section.

REC Price Cap

Proposed Rule 17.410(3) proposes to set a REC price cap that is equivalent to \$16 per ton of net greenhouse gas emissions. CEG believes that this price cap is unnecessary, difficult for investors to calculate and understand, and so low that utilities are likely to pay the price cap rather than purchase RECs.

According to CEG's calculations, the proposed GHG price cap is very roughly equivalent to a REC price cap of \$8/MWh. At this low level, it is unlikely that the RPS will stimulate additional renewable energy development, and the cap will prevent the RPS targets from being achieved.

CEG recommends that this price cap provision be deleted in the Final Rule proposal.

Respectfully submitted this 3rd day of September, 2008 by:

s/ Mark Sinclair

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