September 5, 2008

Florida Public Service Commission
Attn: Mr. Mark Futrell
      Ms. Judy Harlow

Subject: RPS Rulemaking
        Docket No. 080503-EI

Attached for your consideration is Florida Crystals’ mark-up of the Staff 8/11/08 draft rule on the referenced subject.

Sincerely,

Gus R. Cepero
Vice-President
Florida Crystals Corporation

Copies: PSC Clerk’s Office
17.400 Florida Renewable Portfolio Standard

(1) Application and Scope.

(a) The Commission shall establish a uniform, 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, power producer or a utility which makes a reasonable showing that the standards or other related mechanisms should be reviewed, shall initiate a proceeding to review and, if appropriate, modify the renewable portfolio standards or related mechanisms. All modifications of the approved renewable portfolio standards and the associated compliance plans shall only be on a prospective basis and shall not adversely affect prior approved contracts and commitments.

(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 technical and economic potential for Florida renewable energy resources to provide reasonably achievable and affordable annual energy (KWH) savings.

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Which support the policy objectives set forth in 17.400(1)(a) above and which conform to the
standards set forth in 17.400(3)(b) below.

(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, 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

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source of renewable energy located in Florida.

(a) "Renewable Energy Power Purchase Agreement" means a voluntary agreement or contract
between an investor owned utility and an independent power producer for the sale of
renewable energy and renewable energy credits. The sale of renewable energy credits can be
either bundled or unbundled with the sale of energy.

(b) "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.

(jb) "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.

(ij) "Solar Photovoltaic System," means a device that converts incident sunlight into electrical
current.

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

(ik) "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 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
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technical and economic potential of Florida renewable energy resources for each utility’s
service area. Which support the policy objectives set forth in 17.400(1)(a) above and which
conform to the standards set forth in 17.400(3)(b) below.

(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 of
or purchase of renewable energy, the purchase of renewable energy, or the production or
purchase of renewable energy credits pursuant to Rule 17.410, F.A.C.:

1. by January 1, 2010: 42 percent of the prior year’s retail electricity sales;
2. by January 1, 2013: 83.75 percent of the prior year’s retail electricity sales;
3. by January 1, 2016: 85 percent of the prior year’s retail electricity sales;
4. by January 1, 2020: 20 percent of the prior year’s retail electricity sales.

Renewable Energy Power Purchase Agreements

The Commission is specifically granted the authority to approve Renewable Energy Power
Purchase Agreements. These agreements may contain provisions for the sale of renewable
energy, capacity, and renewable energy credits and may be priced above avoided cost. The
Commission shall exercise this authority if it determines such agreements are reasonable and
prudent. In making such determination, the Commission shall consider the performance of the
particular project or agreement relative to other renewable alternatives and relative to the
following policy objectives:

1. Net reduction of greenhouse gas emissions
2. Diversification of Florida’s fuel supply
3. Economic viability of Florida’s existing renewable energy facilities
4. Promotion of investment and economic development in Florida

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from existing law.
To promote stability and predictability in transactions, any changes in the renewable portfolio standards or related mechanisms which are approved subsequent to the approval of the Power Purchase Agreement, shall not adversely affect the terms and conditions of approved agreements.

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, 2020, 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 3 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;

2. Levelized life-cycle cost in cents per kilowatt-hour for each Florida renewable energy resource;

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3. Current and ten-year forecast of the effects of the renewable portfolio standard on
the net 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.


(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 full compliance with any the applicable renewable
portfolio standard based upon a showing that:

1. the supply of renewable energy or renewable energy credits is not adequate to fully
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.

The cost of compliance with the renewable portfolio standard was prohibitive, as defined
below:

The cost of compliance will be measured separately for Class I and Class II renewable energy
sources.

For Class I renewable energy sources, the total cost of compliance will be deemed to be
prohibitive if such costs exceed 2.0% of the investor owned electric utility’s annual revenue.

For Class II renewable energy sources, the total cost of compliance will be deemed to be
prohibitive if such costs exceed 3% of the investor owned electric utility’s annual revenue.

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The costs of projects developed pursuant to Section 366.92(4) shall not be included in the above calculations of prohibitive costs.

(b) Any utility which fails to comply and does not demonstrate excusals listed in this rule, shall issue a refund to ratepayers as a credit in its fuel adjustment clause. Commencing in 2010, the amount of the refund shall be the product of (a) $80/Mwh and (b) the unexcused shortfall from the standards established in 17.400(3) (a) for any given year, expressed in Mwh. For each year after 2010, the $80/Mwh figure shall be adjusted by the Consumer Price Index. The Cost of the refund shall be the responsibility of the utility and not an expense recoverable from ratepayers.

(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 and renewable energy credits to meet the utility’s renewable portfolio standards, excluding 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 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;

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

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

(h) 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.

Specific Authority 330.127(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.

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17.410 Florida Renewable Energy Credit Market.

(1) The Commission shall, in consultation with the Governor's Action Team on Energy and Climate Change, name an independent corporation for the development, administration, and maintenance of a Florida Renewable Energy Credit Market. 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) Funds for the administration of this Renewable Energy Credit market shall come from the Public Service Commission regulatory trust fund. 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

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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 greater than 2 Mw and providing

net capacity; and energy under a purchase power agreement delivering renewable energy 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

ergy resource from which it was derived unless specifically sold or transferred.

(c) A renewable energy credit shall be valid for two calendar years after the date calendar year

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 calendar years after the date calendar year the renewable energy credit is

certified. However, a renewable energy credit shall be retired after it is used to comply with

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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, or cap and trade program.

(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.

2) 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.

4) Within 90 days from the effective date of this rule, the Commission shall institute investor-owned electric utilities shall file for Commission approval the structure, governance, and procedures for administering the renewable energy credit market. The market structure, governance, and procedures, 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

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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 transaction 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 330.127(2), 366.051(1), FS. Law Implemented 366.02(2), 366.04(2)(c), (5), (6), 366.041,


III. Municipal and Rural Electric Coop Reporting

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;

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(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: 339.127(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-88.

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