

**Florida Municipal Electric Association Comments on  
Florida Public Service Commission Staff Workshop  
on Renewable Portfolio Standard Compliance and Enforcement  
September 27, 2007**

**I. INTRODUCTION**

The Florida Municipal Electric Association (“FMEA”) is the state trade association for the thirty four municipal electric utilities in Florida. FMEA represents these utilities before the Legislature and regulatory agencies, including the Florida Public Service Commission. While some FMEA members may provide individual comments to the FPSC on this rule development, they have joined together to offer the comments contained herein.

**FPSC Jurisdictional Questions Remain Over Municipal Electric Utilities**

On September 12, 2007, FMEA submitted post-workshop comments on the PSC’s Renewable Portfolio Standard (RPS) rulemaking proceedings. FMEA remains committed to the positions articulated therein. Given that the topic of the PSC’s latest rulemaking workshop, held on September 27, 2007, was “compliance and enforcement issues associated with an RPS,” FMEA believes it is appropriate to reassert the jurisdictional concerns that are more fully expressed in those earlier comments. Specifically, FMEA questions the Commission’s authority over municipal electric utilities to enforce compliance with a mandatory RPS.

There are numerous issues inherent in the RPS compliance and enforcement discussion over which the Commission’s authority differs between municipal electric utilities and IOUs. Monetary fines for noncompliance, cost recovery, payment of amounts greater than avoided cost for renewable energy sources, terms and conditions of renewable purchase agreements, and dispute resolution are just a few. These differences, among others, necessitate a separate rulemaking proceeding for municipal electric utilities, whereby the Commission may independently consider the role of municipal electric utilities in a statewide RPS. Such an approach would not be unique to Florida. As Ryan Katofsky of Navigant Consulting pointed out during the September 27, 2007, workshop, a number of states have taken a different approach with municipal electric utilities than IOUs regarding their state RPSs. No doubt those states faced many of the same concerns raised by FMEA in our previous comments.

Although FMEA has serious jurisdictional concerns and believes that a separate rulemaking process would facilitate more meaningful and productive discussion with municipal electric utilities, FMEA’s member utilities generally support the underlying policies of a RPS. In fact, FMEA has been proactive in advocating increased reliance on renewable energy and conservation through our Green Energy Portfolio Standard proposal, which we have discussed in detail throughout these rulemaking proceedings. The following comments, therefore, address the issues raised during the September 27, 2007, workshop within the scope of FMEA’s Green Energy Portfolio Standard proposal.

## **II. FMEA'S RESPONSE TO FPSC STAFF QUESTIONS**

What follows is FMEA's response to PSC staff's questions presented at the Renewable Portfolio Standard Compliance and Enforcement Workshop held September 27, 2007. To facilitate further discussion, we provide answers to these questions within the framework of our proposed Green Energy Portfolio Standard.

### **1. Once a verification methodology is chosen, how do we make it work?**

It is important that verification be done by individual utilities, and not by a state or outside agency. At times it may be reasonable for the FPSC to request back-up information to better understand a report, but it is important to streamline the process and to minimize bureaucracy. FMEA recommends that no more than 15% of a utility's green energy budget (i.e., that is, renewable energy and energy efficiency), be assigned to measurement and verification.

### **2. Should there be a weighting system based on objectives?**

FMEA recommends that particular and preferred technologies be given a multiplier for each MWh produced. Executive Order 07-127 states that solar and wind should be emphasized. This can easily be done by giving all output from those technologies a multiplier of three times, for example. The multiplier should be based on the advantage that solar and wind have as clean fuels, as well as the price disadvantage they have compared to other renewable technologies. Thus, a policy decision must be made based on these economic and environmental factors. Such multipliers are equivalent to a subsidy for these technologies. It is important to identify all subsidies so that consumers and investors can clearly understand the economics and make investment decisions.

FMEA does not support quotas, "carve outs" or tiers devoted solely to certain technologies, such as two percent for solar photovoltaics. This is nothing more than a hidden subsidy, because, in this example, a two percent resource mix must be achieved at any cost. We do support taking that quota and turning it into a multiplier so that the public can understand the subsidy and make investment decisions accordingly.

### **3. Should there be a safety valve, such as an alternative compliance payment?**

FMEA recommends that a limit on expenditures be established. We recommend that one percent of electric utility revenues be devoted to Green Energy, which we define as renewable energy, energy efficiency and energy conservation. Each utility would administer the program and report annually to the FPSC the status of its expenditures and the impacts of its programs. We also recommend that research, development and demonstration be included as a qualified option toward meeting the one percent expenditure goal. As an alternative to developing its own programs, we suggest that a utility be able to invest part of its budget with the Florida Energy Office to offer rebates for renewable energy and energy efficiency projects statewide.

**4. Should self-service generation be counted toward goals?**

Yes. All renewable energy generation and energy efficiency and conservation that can be accounted for in Florida should be recognized and count toward the RPS goals. Self-service renewable generation represents electrical load that would otherwise need to be provided by an electric utility. Thus, recognizing that a statewide RPS goal exists, self-service generation should be accounted for.

**5. Should out-of-state renewable energy credits (RECs) be counted?**

Yes, out of state RECs should be counted toward the goal. FMEA has several reasons for supporting this position. First, renewable energy generation projects may be regional in nature. For example, some North Florida utilities are investigating biomass generating plants in South Georgia, which is close to their service territories. There is no reason why such projects should be excluded if they are economically justified. Second, if the goal is to reduce greenhouse gas emissions, it should not matter where projects are developed. If verifiable projects can be developed cost-effectively nationwide, then Florida electric consumers benefit, and our planet benefits from fewer greenhouse gas emissions. Finally, some utilities in Florida have already invested in renewable energy outside of Florida, and they should not be penalized for their early progressive investments in clean technologies.

There should not be a requirement that the energy from out-of-state projects be delivered to Florida. Finally, FMEA believes that renewable energy credits should never expire.

**6. Should banking, borrowing and/or a true-up period be allowed?**

Owners of renewable energy credits should be allowed to bank those credits, indefinitely, to meet their goals. Furthermore, they should be allowed to sell those credits to others. Assuming that goals will be identified in multi-year increments (e.g., 5% by 2013, 10% by 2018), a true-up period may not be necessary. It appears as if a true up would be needed in order to meet an annual goal, where fluctuations in project development can easily occur. A utility may require additional time to meet a goal, and such a request could be part of an annual status report for meeting RPS goals, or a special request. In either case, depending on the type of goals established, and the timing involved, a true-up period may be necessary and should be allowed.

**7. How often should utilities be reviewed?**

We recommend multi-year goals with short annual updates on the progress toward achieving those goals. With annual updates, the FPSC should be able to learn early on whether or not the multi-year goals will be achieved, or if unusual circumstances exist that influence the ability of a utility to reach goals.

**8. What is the best way to ensure compliance?**

FMEA recommends reporting as a method to determine a utility's progress toward achieving goals. We are opposed to penalties, and have significant questions about the FPSC's jurisdiction in this area for assessing penalties on municipal electric utilities.

In FMEA's Green Energy proposal, we do suggest that a utility that does not comply with the standard pay to a state body (such as the Florida Energy Office) an additional 10% above its Green Energy budget (i.e., 1.1 times 1% of annual utility revenues).

**9. Should we establish a baseline of current renewables, and if so, what counts toward the baseline?**

FMEA members believe that existing renewable energy should be counted toward the 20% statewide goal. First, all the goals that the governor presented state that they are statewide, and not incremental above existing renewable generation. Second, not counting existing renewable energy would penalize progressive utilities that have taken the initiative to promote and install renewable energy generation prior to establishing an RPS.

**10. What reporting requirements are needed?**

As we state in our response to question #7, FMEA recommends that utilities provide an update annually on the status toward achieving their multi-year goals. FMEA's Green Energy Portfolio Standard proposal suggests that utilities report annually to the PSC the status of achieving their Green Energy goals, and if they are not on track for achieving their goal, they provide an explanation describing the reasons. The report should include a disclosure of the technologies and measures used, costs, and their contribution (in MWh) to achieving Green Energy goals. This will allow utilities to learn what works and what doesn't work so they can make adjustments to their own efforts.

**11. Should there be a process to review the RPS**

FMEA believes that an automatic process should be established to review RPS goals and the costs to achieve those goals. We are flexible on the time frame. In our proposal, we recommend every three years. Others have suggested every five years. One way to make the reviews meaningful is to hold them in conjunction with deadlines for achieving goals, such as every five years.

**12. Should renewable energy credits be counted toward the goal?**

FMEA supports the use of credits to comply with the goal. We envision two types of credit markets: 1) a national market, and 2) a state market.

The national market would likely be based on a national standard for credits, such as the Environmental Resources Trust, which is specific to the types of renewable energy that can be counted and traded. We recommend that such credits be usable in Florida.

Furthermore, FMEA recommends that there be statewide trading of credits based on the definition of renewable energy used for this rule if it is different from a national standard.

The following is our opinion on the use of Green Energy credits: Each year utilities would, alone or with others, develop, invest in, participate in, or account for Green Energy projects. Utilities should be able to purchase Green Energy credits from other utilities, renewable energy producers, credit marketers or energy consumers that have permanently reduced their energy consumption (based on the useful life of the measure). One MWh equals one Green Energy credit. Credits could only be counted once (i.e., the entity generating the Green Energy may either use the credit or sell the credit to another entity; both entities may not use the same Green Energy credit). Finally, credits must be verified by metering or statistical evaluation.

Respectfully submitted this 16th day of October, 2007:

BARRY MOLINE  
Executive Director  
Florida Municipal Electric Association  
P.O. Box 10114  
Tallahassee, FL 32302-2114  
O: (850) 224-3314, ext. 1  
F: (850) 224-2831  
C: (850) 251-5060  
bmoline@publicpower.com

FREDERICK M. BRYANT  
FMEA General & Regulatory Counsel  
Florida Bar No: 126370  
DANIEL B. O'HAGAN  
Attorney  
Florida Bar No. 33504  
P.O. Box 3209  
Tallahassee, FL 32315-3209  
T: (850) 297-2011  
F: (850) 297-2014  
Email: fred.bryant@fmpa.com  
dan.ohagan@fmpa.com