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PROJECT NO. 31852
RULEMAKING RELATING TO § PUBLIC UTILITY COMMISSION
RENEWABLE ENERGY § OF
AMENDMENTS § TEXAS

COMMENTS OF THE CENTER FOR RESOURCE SOLUTIONS

The Center for Resource Solutions appreciates the opportunity to submit these comments regarding the future of Texas' renewable energy credits ("REC") program. The Center for Resource Solutions (CRS) is a national non-profit organization working to build a robust renewable energy market by increasing demand and supply of renewable resources. CRS administers the Green-e certification and verification program as well as working with regulators and regulatory staffs in the implementation of state Renewable Portfolio Standards.

The Public Utility Commission of Texas is conducting a rulemaking to implement Senate Bill 20 (79th Legislature, 2nd Called Session), relating to this state's goal for renewable energy. The Commission requested comments from interested parties on a number of questions. CRS respectfully submits its response to one of those questions as follows.

Question 4: With respect to new subsection (m) of PURA §39.904, how should the commission's substantive rules be amended to ensure that all renewable capacity installed in this state and all renewable energy credits awarded, produced, procured, or sold from renewable capacity in this state are counted towards the goal in PURA §39.904(a)?

CRS Response

The Commission's Substantive Rule 25.173 should be amended to ensure the intent of the legislature is carried out that the integrity of voluntary and mandatory renewable energy credit (REC) markets are preserved and enhanced.

The purpose of subsection (m) was to ensure that the Commission gathers accurate information on both mandatory and voluntary REC markets in order to assist the

legislature in gauging the success of the renewable energy market in Texas under the renewable portfolio standard. The goal of PURA §39.904 is to support positive growth in the use of renewable energy for the production of useful energy services in the state of Texas.

Therefore, subsection (m) must be implemented in a way that counts all RECs produced, etc. in Texas *without compromising the fundamental goal of increasing renewable energy* through the use of the market-oriented RECs system.

Rather than try to rephrase the comments made by others in slightly different words, the Center for Resource Solutions would like to support the comments already submitted by the Texas Renewable Energy Industries Association, The Wind Coalition, and the U.S. Environmental Protection Agency. We believe their arguments are sound and consistent with the intent of the Texas Legislature and best practices in other RPS states.

When developing competitive energy markets, rule changes need to be kept to a minimum since changes create regulatory uncertainty, discourage investment and market participation crucial to achieving the policy benefits intended by the Legislature. Program stability is a critical principle for all program participants. Moreover, the voluntary renewable energy market is an important supplement to the mandatory market. It is a large market (>7 million MWh sold in 2004) that is growing exponentially every year. The investments made by consumers in the voluntary market must be 'additional' to that required by the state RPS program. Otherwise, there is no point in a Texas consumer investing additional funds into a renewable purchase if those funds simply displace investment that the utility would otherwise be obligated to undertake.

The Center for Resource Solutions strongly believes that the voluntary market for Texas renewable generation will be seriously damaged if the RECs retired in the voluntary market are counted against the renewable energy mandate (the 5,880 MW mandatory sub-goal of PURA §39.904). These RECs would not be eligible for Green-e certification or for use by purchasers in the Product Labeling Initiative "Made with

Renewables.” As a result, this would place Texas non-residential consumers who are interested in distinguishing their product as “Made with Renewables” at a distinct disadvantage compared to their competitors located in other states where this brand is available.

Conclusion

As stated in the TREIA filing in this rulemaking:

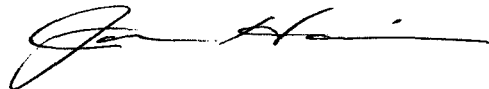
“The Texas Legislature has been abundantly clear: the use of renewable energy in Texas should increase. With the enactment of subsection (m), the Texas Legislature introduced an important diagnostic metric for overall success in reaching that goal. This important step compels the PUCT to ensure that a full assessment of the voluntary and the mandatory RECs markets is undertaken in order to ascertain the effectiveness of both market segments in accomplishing the legislative goal.

It is in this light that the PUCT should approach its task of developing rule amendments to implement SB 20. The goal is improved accounting, and any suggested approach that poses a credible risk of reducing the use of renewable energy in Texas is both inconsistent with the Texas Legislature’s goal for PURA and with sound policy.”

The Center for Resource Solutions respectfully submits that the PUCT should reject any interpretation of subsection (m) that effectively counts voluntary RECs *against* the renewable energy mandate. What subsection (m) requires is that the PUCT adopt systems and requirements for better accounting for voluntary market activities to determine the extent to which voluntary markets count *toward* increased renewable energy use in Texas.

Dated: February 21, 2006

Respectfully Submitted:



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