

# LOCAL REGION PROPOSED ACCREDITATION CRITERIA:

## MEMORANDUM OF UNDERSTANDING AMONG Florida Green Pricing Accreditation Program Stakeholders Group (Stakeholders) and The Center for Resource Solutions (CRS)

The Florida Green Pricing Accreditation Program Stakeholders Group (Stakeholders) has reviewed the “CRS Accreditation of Green Pricing Programs Final Criteria” (“National Criteria”). The Stakeholders are supportive of the goals of the Green Pricing Accreditation Program as articulated in that document, are committed to upholding the standards represented by the Green Pricing Accreditation Program’s criteria, and agree to help enforce those standards by notifying The Center for Resource Solutions (CRS), host to the Green Pricing Accreditation Program, of any instance when an Accredited Program fails to meet the Green Pricing Accreditation standards adopted by the Stakeholders.

This Memorandum of Understanding (MOU) among the Stakeholders and CRS provide the criteria for the Accreditation of green pricing products in the state of Florida. These criteria are designed to be consistent with and refer back to the national criteria for Accreditation of green pricing programs. The Stakeholders support the criteria provided in this MOU. These criteria were not developed for the purposes of a Renewable Portfolio Standard, System Benefits Charge, or other future state renewables policy initiatives.

### SECTION 1 - RESOURCE CONTENT

Eligible fuels that may be used to supply Accredited green pricing products are the following:

1. Hydrogen derived from eligible fuels as defined by this section.
2. Solar energy, which includes solar electric and solar thermal energy.
3. Wind power.
4. Geothermal.
5. Hydropower that is certified by the Low Impact Hydropower Institute.
6. Ocean and tidal power, subject to Stakeholders and Green Pricing Accreditation Board (“Board”) approval.
7. The following bioenergy fuels:
  - a) Landfill gas.
  - b) Sewage methane gas.
  - c) Biogas from the treatment of animal waste. This includes animal bedding materials.
  - d) Urban and land clearing wood waste. Urban wood waste consists of tree trimmings and other yard waste. Land clearing wood waste, for purposes of this section, consists of wood waste resulting from the clearing of land for utility rights of way and public highways and roads.
  - e) Wood manufacturing waste. Wood manufacturing waste is wood waste that comes from milling and manufacturing processes and cannot be economically recycled. The waste includes bark, trim stock, chips, shavings and sawdust. The waste does not include painted, pressure treated or otherwise chemically treated wood.
  - f) Agricultural waste residues (peanut shells, corn stalks, etc.).
  - g) Dedicated Energy crops.

The following definitions apply to subsection f):

- i. Dedicated energy crops means plant species such as short rotation woody crops and perennial grasses.
- ii. IFAS means the University of Florida Institute of Food and Agricultural Sciences.
- iii. IFAS Assessment means the IFAS Assessment of Non-Native Plants in Florida's Natural Areas.
- iv. IFAS Evaluation means an evaluation prepared by one or more IFAS faculty members on plant species that are not currently in cultivation in Florida.
- v. A naturalized species means a non-indigenous species introduced to Florida that is: 1) adapted to a climate, ecological site, or environment in the state; and 2) can perpetuate itself without fertilizer, pesticide or herbicide.
- vi. A genetically modified organism means a species that is genetically engineered with techniques that alter molecular or cell biology of an organism by means that are not possible under natural conditions or processes. Genetic engineering includes recombinant DNA and RNA techniques, cell fusion, micro- and macro-encapsulation, gene deletion and doubling, introducing a foreign gene, and changing the positions of genes. Genetic engineering shall not include breeding, conjugation, fermentation, hybridization, in-vitro fertilization and tissue culture.

Dedicated energy crops do not include the following:

- i. Plant species that are genetically modified organisms;
- ii. Plant species listed on the Florida Exotic Pest Plant Council's list of invasive species;
- iii. Plant species that the IFAS Assessment concludes are in the categories "No," "Avoid with Risk Benefit Analysis," or "Avoid and Reassess in Two Years," and finds that there are no management practices that can be used to prevent the invasiveness from causing a negative environmental impact; or
- iv. A plant species that the IFAS Evaluation determines 1) can become naturalized, 2) is invasive, and 3) would cause a negative environmental impact that could not be prevented by management practices.

Each dedicated energy crop species must be approved by the Stakeholders to become an eligible fuel. An energy crop species shall not be approved until the results of the IFAS Assessment or IFAS Evaluation are submitted to the Stakeholders.

The IFAS Evaluation is initiated by the Stakeholders submitting a crop species to the Director of the IFAS Center for Aquatic and Invasive Plants for evaluation. The Director shall then identify one or more faculty members who can conduct the IFAS Evaluation. The Stakeholders shall then select the appropriate faculty member or faculty members to conduct the IFAS Evaluation. The IFAS Evaluation shall contain at least the following information:

- i. The invasive characteristics of the species.
- ii. If the species has invasive characteristics, whether there are management practices that can be used to avoid a negative environmental impact.
- iii. If a species is not invasive or a negative environmental impact from its invasiveness can be avoided through management practices, then a description

- of the management practices that will ensure that the species does not have a negative environmental impact.
- iv. If a species is not naturalized, the likelihood of the species becoming naturalized.

The IFAS Evaluation does not constitute a thorough evaluation of the species to be introduced. The IFAS Evaluation is only intended to indicate the likelihood that the species under review may or may not exhibit invasive characteristics based on what is currently known about the species.

An energy crop species approved by the Stakeholders that has not been reviewed by an IFAS Assessment must undergo such an assessment within two years and six months after being approved by the Stakeholders in order to remain an eligible fuel. The results of this IFAS Assessment shall be submitted to the Stakeholders. The Stakeholders may reevaluate whether the energy crop species is an eligible fuel based on the IFAS Assessment.

A dedicated energy crop shall not replace existing forested land or native habitat.

## SECTION 2 - NEW RENEWABLES

All Accredited products must meet the definition of new renewable energy. New renewable energy is defined as energy production from a system placed in service for the purpose of having its energy output being included in a green pricing product offered to Florida customers or Tradable Renewable Certificates (TRCs) certified by Green-e and generated in the Southeastern Electric Reliability Council (SERC) or Florida Reliability Coordinating Council (FRCC) regions. A map showing the boundaries of these regional reliability councils is available online at <http://www.nerc.com/regional/>. If a facility used to supply an accredited Florida program is located outside the state of Florida, it must also meet the CRS accreditation criteria of that state.

Energy production may be either electric energy or the kilowatt-hour equivalent of a solar thermal energy system. New renewable energy may also be energy production from an eligible fuel co-fired in a fossil fuel facility for the purpose of having the energy output from burning the eligible fuel being included in a green pricing product offered to Florida customers. Resources that are or were acquired as a result of a specific mandate requiring the construction of renewable resources (e.g. a renewable portfolio standard or an environmental compliance program which ties construction of the renewable to the approval of another activity or project), will not qualify as a "new" renewable resource. Output from a mandated renewables facility that is in excess of the mandated amount of renewables is eligible. Renewable facilities that have been included in the utility's general rate-base are not eligible.

New renewables also include facilities that have not been in production for a period of at least 12 consecutive months and that are restarted for the purpose of renewable power generation or cofiring (subject to stakeholder and Board approval) with eligible renewable fuels. If an existing facility expands its production of capacity and/or energy and the expansion otherwise meets the criteria set forth in this document, then such expansion will qualify as a new renewable.

The fact that a resource is offered in a green pricing program that itself was initiated to meet obligations in the PSC-approved settlement agreements between Florida's utilities and the Legal

Environment Assistance Foundation in Docket Nos. (CITE #s of settlement agreements with FPC, FPL, TECO, GULF, Tallahassee Electric, NSBMU) shall not negate its qualification as a "new" resource.

Accredited products shall meet the following resource portfolio percentage standards:

1. There are no required resource portfolio percentages for the first and second year following the date a green pricing product is Accredited.
2. For the time period following the first two years after the date a green pricing product is Accredited the product shall contain one of the following resource portfolio percentage options:
  - a) at least 2% solar photovoltaic delivered electricity; or
  - b) at least 10% delivered energy from solar photovoltaic, solar thermal, and/or wind.

### SECTION 3 - BIOENERGY

A bioenergy facility is an electric generating facility that uses an eligible bioenergy fuel to generate power. Bioenergy used in accredited products must meet one or both of the following emissions criteria, in addition to meeting all of the criteria below:

1) The following emissions rates will apply to a facility for ten years, in order to allow for long-term contracts. After the ten-year period, facilities will need to reduce emissions to the current standard. All numbers are average annual emission rates. Each biomass technology on a biomass site must meet the criteria individually; the standard is not an average for the entire application.  
NOx: 1.77 lbs/ MWH 2001 through May 2004; 1.5 lbs/ MWH May 2004 through May 2007  
SOx: 1.5 grains S / 100 scf  
PM10: 0.02 Pounds/MMBtu  
PM2.5: To be developed when EPA standards become available  
CO: 0.75 Pounds/MMBtu  
VOC: 0.15 Pounds/MMBtu

2) Each bioenergy facility shall have best available control technology for each air pollutant it emits that is a criteria pollutant under the federal Clean Air Act and that is emitted in an attainment area for that pollutant. Each bioenergy facility shall have lowest achievable emission rate technology for each air pollutant it emits that is a criteria pollutant under the federal Clean Air Act and that is emitted in a non-attainment area for that pollutant. The Florida Department of Environmental Protection shall determine what constitutes best available control technology or lowest achievable emission rate technology. If the Florida Department of Environmental Protection does not make such a determination because it is not required to do so by law, then the determination shall be made by a third party mutually agreed upon by the project owner and the Stakeholders (*this criterion would be deleted if Florida DEP made the determinations for all bioenergy facilities*). In bioenergy facilities where a bioenergy fuel is co-fired with a fossil fuel, the best available control technology or lowest achievable emission rate technology requirement shall only apply to the facility's combustion of the bioenergy fuel. The co-firing of bioenergy fuels shall not lead to an increase of any pollutant regulated under the federal Clean Air Act from the emission levels of this pollutant that would occur if the facility burned only the fossil fuel, or combination of fossil fuels, that it has burned for the two years prior to the determination of what constitutes best available control technology or lowest achievable emission rate technology for the facility. The best available control technology and lowest achievable emission rate technology requirements shall apply to the facility for ten years. After

the expiration of this ten-year period, and each subsequent ten year period, the facility's emission control requirements shall be redetermined in the same manner as a new facility under this section.

A bioenergy facility may co-fire one or more eligible bioenergy fuels with one or more fossil fuels (subject to Board approval). A bioenergy fuel shall not be co-fired in an electric generating facility that would be uneconomical to run without the co-firing of the bioenergy fuel.

No landfill gas recovery project should impede the closure or post-closure process of a landfill. Landfills that host electricity generating facilities used for green pricing must be in compliance with all state and federal laws.

Bagging materials, plastics and any other contaminants must be removed from wood waste prior to combustion in a bioenergy facility.

It is the responsibility of each bioenergy facility owner to create an auditable system of tracking the following: the fuel type in the fuel stream of the bioenergy facility; all emissions generated for which there are emission limits established in this MOU. The information generated by this tracking system shall be submitted to the Stakeholders in an annual report. All reports will be open to the public for review.

#### **SECTION 4 – SOLAR THERMAL ENERGY**

Each solar energy system shall:

1. Comply with the State of Florida's solar collector and system certification standards that are administered by the Florida Solar Energy Center.
2. Be installed and permitted according to all applicable local building codes.
3. Have its energy output measured by a metering system or through a performance verification method. The metering system shall have the ability to measure the kWh contribution of the solar energy system. The performance verification method shall determine the kWh contribution of the solar energy system and be done in accordance with a method approved by the Stakeholders and the Board.

#### **SECTION 5- RENEWABLE ENERGY BLOCKS**

Green pricing product providers with products that do not require customers to buy 100% of their energy from renewable resources are eligible for Accreditation. In such a case, the provider can offer customers blocks of renewable resources to be purchased in combination with the utility's own system power. Energy blocks offered to customers within the context of the Accredited green pricing product must include at least 100 kWh of new renewable energy supply per month. A block must be 100% renewable energy, and may be in any combination of eligible renewable resources. Customers must be able to purchase as many blocks as they desire or an amount equivalent to 100% of their monthly electricity usage.

Exceptions to the 100 kWh minimum standard may be granted for solar-only products in the case that a utility is also offering a 75 kWh or greater accredited product.

**SECTION 6 – PERCENT OF USE (BLENDED) ENERGY PRODUCTS**

Products sold as a percent of usage based on a customer's metered monthly use (blended energy products) are eligible for green pricing accreditation if the total amount of electricity sold to customers contains at least 15% new renewable energy.

**SECTION 7 - DONATIONS**

Donation programs are not eligible for Accreditation in Florida.

**SECTION 8 - SECONDARY USE**

Non-residential customers who purchase sufficient amounts of accredited green power are eligible to use the Green-e logo and reference the Accreditation Program and its standards when describing their power purchase. Exact purchase quantities can be obtained from Center for Resource Solutions. These quantities shall be consistent with the quantities established by the U.S. Environmental Protection Agency's Green Power Partnership Standard. Customers shall accurately describe their green power purchases, either in the exact kWh amount of the purchase or in terms of the green power purchase's contribution to the customer's overall energy consumption. Customer use determinations shall be calculated against annual energy consumption data. Customers will use standard language provided by CRS and local stakeholders when using the Green-e logo or referring to the Accreditation Program. For primary use of the Green-e logo by utilities, only products that meet Green-e product standards may use the Green-e logo. Green-e product standards require that blocks contain 150 kWh of new renewable energy, and that percent-of-use products contain at least 50% renewables (including new and existing renewables).

**SECTION 9 - PRODUCT PRICING**

The delivery of the renewable resources should be sufficient to supply the customer's green power purchase on an annual basis. Verification will be conducted by Center for Resource Solutions on a calendar-year basis. An accredited product may include only energy generated in the calendar year in which the product is sold, the first three months of the following calendar year, or the last 6 months of the prior calendar year. The additional three-month future period is granted to allow for final meter reads and balancing of supply and demand.

The price of Accredited products should not exceed direct program costs (including reasonable profit or allowed rate of return) plus overhead (e.g. direct marketing and educational efforts beyond utility research and research/development initiatives). In no case should the above market costs of the energy used directly for an Accredited green pricing product be allocated to customers who are non-participants in the product, unless such costs are related to public policy initiatives deemed acceptable by local stakeholder groups, subject to final approval by the Board.

Unless it creates conflict with the Public Service Commission or the relevant governing body's decisions, green pricing product providers shall exempt green pricing customers from fossil-fuel cost adjustments that are specifically related to the use of non-renewable fuel sources on a pro-rata basis based on the amount of eligible renewable energy purchased by the customer. Exemptions may be granted in some cases due to external constraints. If the utility believes it

cannot comply with this requirement, a statement of explanation for non-compliance must be submitted to, reviewed by, and agreed upon by the Board.

## **SECTION 10 - MARKETING COSTS AND PERFORMANCE TARGETS**

As part of their annual Accreditation review, participating green pricing product providers will submit to CRS, for ultimate review by the Board, an annual report that lists a) number and type/class of customers being served by the green pricing product; b) kWh of renewables sold to those customers; and c) copies of all marketing materials used during the year.

If the Stakeholders believe an Accredited product is not receiving adequate support, they shall first seek an explanation and understanding from the utility. Failing to receive an acceptable explanation, the Stakeholders may petition CRS to review the marketing effort and plans. If CRS agrees, it may seek additional information about the Accredited product. The participating utility shall be given an opportunity to explain its position directly to the Board. All information provided by participating utilities to fulfill this criterion will be treated as confidential by CRS. The Stakeholders recognize that the Board reserves the right to make case-by-case determinations on the adequacy of individual marketing efforts made by participating utilities.

Product marketing costs may not be shared with non-participating customers if the green pricing product provider's customers will be able to select an alternative power supplier within two years.

## **SECTION 11 - PRODUCT ACCESS**

In some cases, utilities will need time to procure renewable resources from the open market or build new capacity in order to meet that demand. In this event, consumers may have to be on a waiting list before they can officially subscribe to a green pricing program. If green pricing program providers have a waiting list, the waiting period must not last more than one year from when the customer seeks to join the green pricing program. Should the green pricing program provider accrue a waiting list of interested participants, the provider shall send a stand-alone letter to the waiting list on a semi-annual basis explaining why the list is not being served and what steps the provider plans to take to rectify the supply/demand imbalance. In the event that the program provider holds a waiting list, it should notify CRS immediately stating the reasons for the insufficient supply and actions planned to remedy the situation. In the event of a semi-annual wait-list notification, the provider should notify CRS of the event and provide the number of customers on the waiting list. Enrolling but not serving customers for more than one year may be grounds for removing accreditation.

Accredited green pricing products must be offered to all customer classes and in all regions of a utility service territory not eligible for retail choice, except in those cases where a service territory is broken across regulatory jurisdictions. Pilot products offered to select numbers of customers may be granted Accreditation if the product is slated for expansion under a timeframe deemed reasonable by local stakeholders, pending final acceptance by the Board.

The green pricing provider shall ensure that when a customer contacts the utility to establish new service, the customer is informed about the green pricing option.

The green pricing provider will ensure that a customer who relocates but remains within the service territory shall remain a customer of the green pricing product unless the customer requests a change in their subscription status.

Utilities must not require residential green pricing product customers to sign up for more than a 1-year period.

**SECTION 12 - DISCLOSURE AND CUSTOMER INFORMATION PROVISIONS**

Utilities offering Accredited products will annually disclose, in customer bills (or other direct customer contact), to all of their customers, irrespective of their participation in the Accredited product, the fuel mix of the resources used to generate the past year's system power, and data on the electricity purchased by the customer, if it differs from system power (historic disclosure). The annual disclosure shall also include a reference to a toll-free number and web site where the customer may obtain information regarding the utility's total annual air emissions of carbon dioxide, carbon monoxide, nitrogen oxides, particulates, sulfur oxides, volatile organic compounds, and the total annual emissions of each toxic pollutant in each media that the utility reported to the U.S. Environmental Protection Agency's Toxics Release Inventory as being released during the year. The utility also will provide a disclosure statement, at the time of offer of service, to prospective customers of the Accredited product that lists the resources used to supply the electricity for the product (prospective disclosure) as well as information on the fuel mix of traditional system power.

**SECTION 13 - CRITERIA FOR TREATING MARKET POWER**

The Green Pricing Accreditation Program will be governed by the following considerations to help offset and minimize, to the extent practical, market power concerns:

- 1) Accreditation will not be available to any utility program targeted at customers who have access to retail competition or where it has been announced that they will have access to retail competition within 2 years of the time the Accreditation first takes affect.
- 2) In the event a particular jurisdiction opens to competition, the Accreditation criteria will be supplanted by the criteria required for Green-e certification.

**SECTION 14 - REGULATORY APPROVAL**

Accreditation is only available to products that have been approved by the appropriate regulatory or oversight body with jurisdiction over the product prior to the product's nomination for Accreditation. Participating utilities must demonstrate that they are in full compliance with all regulatory requirements. At the recommendation of the Stakeholders, this requirement can be fulfilled upon the recommendation by a representative of the Florida Public Service Commission that the product under discussion would likely be approved.

**SECTION 15 - ADDITIONAL ISSUES**

Individual stakeholders of the Florida Green Pricing Accreditation Stakeholders Group are invited to attach to this document concerns about any individual criteria proposed by the Stakeholders. While no single stakeholder can veto the Stakeholders' work, the Board invites individual stakeholders with minority views to document those views as a way of informing the Board's consideration of this proposed set of Accreditation criteria.

The Stakeholders shall meet on an as-needed basis. The objectives of the annual meeting shall include reviewing the criteria provided in this MOU, evaluating the effectiveness of the criteria, reviewing annual reports of bioenergy facility owners, and discussing and developing any amendments to the criteria. The purpose of the annual review of the criteria is to address advancements in technology, modifications of federal, state and local environmental law, and regional energy market conditions.

**SECTION 16 - ELECTRIC INDUSTRY RESTRUCTURING**

Parties agree that this MOU is applicable while the electric industry in Florida retains its current structure. Parties agree that the criteria established here will be revisited in the event that industry restructuring becomes imminent in Florida.

**SECTION 17 - REGULATORY PROCEEDINGS**

The Stakeholders agree that while individual stakeholders may use regulatory proceedings to air grievances in an accepted manner, the voluntary Accreditation Program, its voluntary processes, and its voluntary governance shall never be the basis for an action in a regulatory proceeding.

**SECTION 18 - TERMINATION**

This is a voluntary program and utilities may terminate participation at any time for any reason. If any party to the MOU violates any portion of the MOU, all parties have an opportunity to terminate their participation in the MOU. Parties must inform all other parties, in writing, of the violation they believe has occurred and agree to act informally to resolve the dispute. If a resolution is not reached, any party may terminate its participation in the MOU by informing all other parties of their decision to discontinue participation in the MOU.

**SECTION 19 - CEASE & DESIST PARTICIPATION**

Once Accredited, utilities with Accredited products found by CRS to be out of compliance with the terms of the Accreditation Program and its criteria, as outlined in this MOU, will immediately cease and desist their participation in the Accreditation Program, including removing references to the Accreditation Program from marketing materials or making any other public representations about a particular product's participation in the Accreditation Program. Such an offender may also be liable for damages incurred by the Accreditation Program and/or its Board as a result of these offenses.

- See Attached "REGIONAL STAKEHOLDERS IDENTIFICATION FORM" for a complete list of organizations participating in the Florida Green Pricing Accreditation Program Stakeholders Group.

## **REGIONAL STAKEHOLDERS IDENTIFICATION FORM**

The following organizations have voluntarily participated in the development of Green Pricing Accreditation Criteria for Florida. Organizations involved in the stakeholder process are supportive of the goals of the Green Pricing Accreditation Program, are committed to upholding the standards represented by the Green Pricing Accreditation Program's criteria, and agree to help enforce those standards by notifying the Center for Resource Solutions of any instance when an Accredited product fails to meet the Green Pricing Accreditation standards adopted by this stakeholders group.

**Stakeholder Group Host:**

**Participating Organizations:**