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Public Service Commission of Wisconsin  
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June 12, 2009

Sandra J. Paske  
 Public Service Commission  
 P.O. Box 7854  
 Madison WI 53707-7854

RE: Comments on the Briefing Memorandum for Advanced Renewable Tariff  
 Development  
 Docket Number: 5-EI-148

Dear Ms. Paske:

The Forest County Potawatomi Community ("FCPC" or the "Tribe") respectfully submits the following comments on the May 20, 2009 Briefing Memorandum for Advanced Renewable Tariff ("ART") Development in response to the Public Service Commission's May 22, 2009 Request for Comments. With these comments, the Tribe would like to help ensure that the mission of the Governor's Task Force on Global Warming (the "Task Force") as well as the ART policy contained in the Task Force's Final Report entitled "Wisconsin's Strategy For Reducing Global Warming" (the "Final Report") are fully implemented.

For the most part, the Briefing Memorandum accurately reflects the Tribe's February 17, 2009 comments to the Commission and is consistent with the Task Force Final Report recommendations for implementation of ART policy. However, the Briefing Memorandum fails to include the Tribe's discussion of the cost of construction and operation of renewable energy projects, particularly for non-taxable entities, that is essential for the Commission to consider when establishing an ART. The Briefing Memorandum also fails to adhere to the recommendations in the Task Force Final Report when the Memorandum suggests what it calls "adequate incentives" for renewable projects. The Tribe briefly outlines these missing issues in its comments below.

The ART policy is a key component of achieving the Task Force's mission. As was identified by the Task Force in its Final Report, generation from small distributed renewable resources will result in significant reductions of CO<sub>2</sub> emissions by 2025. However, the Briefing Memorandum does not consider the situation of non-taxable entities, such as governmental

bodies or not-for-profit community organization, that cannot directly take advantage of federal tax credits when developing renewable resources. The Commission should consider the inability of non-taxable renewable project developers to take advantage of federal tax credits that are available to for-profit businesses, which puts the non-taxable entities at a considerable disadvantage in developing renewable energy projects. In developing ART Policy, the Tribe respectfully suggests that the Commission should account for the differing ability of entities to receive federal tax benefits in determining the appropriate capital costs and therefore the appropriate ART rates for small renewable projects.

The Briefing Memorandum later provides what it describes as “adequate incentives” for renewable resource project development. However, these “adequate incentives” are inconsistent with the recommendations of the Task Force, which provide that ARTs should allow for “full recovery of capital costs plus a rate of return comparable to the utilities’ allowed return.” Because of this, the “adequate incentives” are in fact inadequate to promote small renewable energy development. In fact, the Briefing Memorandum notes that for biomass and biogas, two of the largest but most under developed resources in the state, the “adequate incentives” are unlikely to allow for inadequate return on investment and in some cases even a full recovery of costs. The Tribe is concerned that using these “adequate incentives” to develop ART policy will greatly limit the development of renewable resources in Wisconsin.

The Briefing Memorandum also does not consider some of the significant benefits of small distributed renewable generation, especially in remote rural locations, that were identified in the Tribe’s comments. These added benefits include avoided transmission and distribution costs. The Commission’s ART policy and ART rates should reflect these added benefits.

Attached to this letter are specific comments on the Briefing Memorandum in response to the Public Service Commission’s May 22, 2009 Request for Comments. Thank you for your consideration of this important matter, and please feel free to contact me or John Clancy at 414-273-3500 if you have any questions or comments regarding this letter or the attached responses to the Notice.

Very truly yours,

FOREST COUNTY POTAWATOMI  
COMMUNITY



Jeff Crawford

FOREST COUNTY POTAWATOMI COMMUNITY RESPONSES TO  
PUBLIC SERVICE COMMISSION OF WISCONSIN BRIEFING MEMORANDUM  
REGARDING ADVANCED RENEWABLE TARIFFS  
DOCKET # 5-EI-148

The Tribe respectfully submits the following comments on the May 20, 2009 Briefing Memorandum for Advanced Renewable Tariff.

**Issue Three: If the Commission chooses to require uniformity in ART prices, what prices might be appropriate?**

**FCPC Comment: Inability of governmental and non-profit entities to take advantage of federal financial incentives.** FCPC appreciates the effort of the Commission staff to adhere to the recommendations of the Task Force in developing Table 2 at page 16 of the Briefing Memorandum. However, it is important to note that the staff's analysis assumes that "customer[s] will take full advantage of state and federal financial incentives." This assumption is likely correct with respect to the state incentives, since they do not come in the form of a tax credit, but it is likely not true for federal incentives, which come in the form of tax credits and that non-taxable entities cannot receive.

As noted in FCPC's February 17, 2009 letter to the Commission, it is very important for the ARTs to reflect the fact that governmental and non-profit entities generally cannot take advantage of most federal financial incentives, since they come in the form of tax credits. Accordingly, as indicated in FCPC's February 17 letter, it is appropriate in establishing ARTs for the Commission to account for the differing ability of all entities to receive federal tax benefits in the cost of developing and operating a project in a way that levels the field. One proposal put forward by the Tribe in its February 17 letter could be to establish two sets of ARTs, one for for-profit entities, and one for governmental and non-profit entities, who cannot directly take advantage of the federal incentives.

**FCPC Comment: ARTS should account for additional benefits from encouraging small distributed renewable generation.** Encouraging small distributed renewable generation, especially in rural locations through ART Policy has the potential for added cost benefits. In establishing ARTs, the Commission should consider and account for these added benefits as discussed below.

1. **Avoided transmission and distribution costs.** As the Tribe identified in its response to Question 3 in the February 17 letter, ARTs should account for transmission and distribution costs avoided by distributed renewable energy generation, which is typically produced close or adjacent to where it is used.
2. **Locational marginal costs differential.** As the Tribe identified in its response to Question 3 in the February 17 letter, ARTs should include a locational marginal costs differential to account for capacity and losses avoided by distributed renewable energy generation.

3. **Netting.** As the Tribe identified in its response to Question 3 in the February 17 letter, ARTs should allow local communities the option of netting renewable energy generation over their various facilities.

**FCPC Comment: Lack of “Adequate Incentives” proposed in Table 3.** The “adequate incentives” identified in Table 3 are inconsistent with the recommendations of the Task Force regarding ARTs. Unlike the production costs identified in Table 2, the pricing identified in Table 3 fails to adhere to the recommendations in the Task Force final report that ARTs allow for “full recovery of capital costs plus a rate of return comparable to the utilities’ allowed return.” The dramatically lower “adequate incentives” in Table 3 compared to production costs identified in Table 2 is especially of concern with respect to biomass. This resource represents a significant renewable energy opportunity in Wisconsin that is currently underutilized. This is concerning, since under the “adequate incentives” identified in Table 3, it appears unlikely that many additional biomass facilities would be sited in the state.

The Briefing Memorandum notes that the price that is identified in Table 3 would be unlikely to offer any customer full cost recovery, let alone a return on investment. Accordingly, the rates identified in Table 3 with respect to biomass are unlikely to encourage additional biomass development in Wisconsin. This is especially concerning because Biomass is identified by the Task Force as one of Wisconsin’s largest and most underutilized renewable resources. It appears that the “adequate incentives” in Table 3 offer no incentive to develop this resource further.

**Issue Five: Should the Commission limit the total program size for ARTs offered by the utilities, and if so, on what basis should limits be established?**

**FCPC Comment: Inclusion of biomass in ART programs.** Page 27 of the Briefing Memorandum identifies potential program caps on ARTs for three possible technologies: solar PV, biogas, and wind. Missing from these technologies is biomass. Hopefully, these program caps are only example caps and does not reflect an indication not to include biomass. It is critical to make sure that biomass facilities be included under the ART program, given the abundance of biomass resources in Wisconsin.