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**IURC RM 11-05**

**RULEMAKING COMMENTS ON INDIANA VOLUNTARY CLEAN ENERGY  
PORTFOLIO STANDARD PROGRAM**

**AUGUST 15, 2011**

**SUBMITTED BY**

**UNITED STATES STEEL CORPORATION**

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United States Steel Corporation (“U. S. Steel”) respectfully submits the following comments in connection with the Commission’s rulemaking to implement the Indiana Clean Energy Portfolio Standards Program (“Program”) by SEA 251 and codified as Indiana Code 8-1-37 *et seq.* (the “Act”). U. S. Steel uses industrial byproduct technology that uses energy that is a byproduct of its industrial process. As such, U. S. Steel produces energy that qualifies as a “clean energy resource” as described in I.C. §8-1-37(4)(a)(13). It is from this perspective, as well as U. S. Steel’s status as a large industrial customer, that U. S. Steel offers the following comments for the Commission’s consideration in drafting the strawman administrative rules (“Rules”) to implement the Program.

1. Clean Energy Credit Program – The Act contemplates the creation and use of clean energy credits (“CECs”). CECs will represent one megawatt hour of clean energy, and they must be generated by a facility located in the control area that is part of a regional transmission organization of which an electricity supplier is a member. The Rules should make clear that the provider of clean energy resources or electricity from a clean energy resource (a “Clean Energy Provider”) will not be deemed a “public utility” subject to ongoing regulation with the IURC.

2. Process for Establishing Clean Energy Credits - As the Commission creates the Indiana CEC Program through the Rules, it should establish that a CEC is created each time the Clean Energy Provider produces one megawatt hour of electricity from clean energy resources. The IURC’s clean energy standards should recognize and encourage the opportunities of repurposing existing clean energy resources to meet Indiana’s electric energy needs within the foreseeable future. To facilitate investment by

businesses and individuals in clean energy, the Rules should allow a streamlined process for Clean Energy Providers to apply for and receive a CEC, and subject to I.C. §8-1-37(12)(c)(2), the Rules should recognize that CECs may be sold or traded separately from the energy. The Commission should consider circumstances when it is reasonable to allow Indiana Clean Energy Providers to export such resources to other states if they are unneeded in Indiana. Participating electric suppliers who have already initiated certain activities to meet prior orders of the IURC or other regulatory bodies should not be awarded the additional Indiana incentives or recognition available under new clean energy rules. The Rule should contemplate the involvement of a CEC third party administrator capable of verifying and tracking CECs and providing information to the Commission and the public.

3. Base Year - Indiana Code §8-1-37-1 defines the base year as December 31, 2010. In order to reach the policy goals of promoting clean energy resource use, this base year should be applied to retail energy sold by a participating electric supplier. In addition, it should be applied to the generating facilities within the participating electric suppliers' portfolio of used and useful facilities providing energy for consumption by retail customers during the base year.

4. Process Issues - When a participating electric supplier applies to participate in the Program pursuant to I.C. §8-1-37-11(a) and when a participating electric supplier applies for a periodic rate adjustment mechanism as contemplated by I.C. §8-1-37-13(d), the Rules should allow for intervention by interested parties. The Rules should allow an intervenor an opportunity to engage in discovery and to file

testimony prior to a determination. If necessary, the Rules could establish condensed intervals similar to a “rocket docket proceeding” to establish these goals in an expedited fashion. The Rules should also require that upon request by an interested stakeholder, the participating electric utility shall notify the interested stakeholder of any Commission filing made by the participating electric utility that seeks approval or modification of any aspect of the utility’s participation in the Program, including but not limited to the sources used, the periodic rate adjustment, or the shareholder incentive described in I.C. §8-1-37-13(a).

5. Affiliates - The Commission should consider whether the Rules should discourage an affiliate of a participating electric supplier from serving as a Clean Energy Provider for purposes of achieving the Clean Portfolio Standard Goal.

6. Lowest Cost Option - To ensure that the Rules achieve the policy goals of the Act, the Rules should establish that the award of incentives will always consider the lowest cost options available.

7. Accountability - Participating electric suppliers should be held accountable to follow through with an approved plan. Accordingly, the Rules should subject participating electric suppliers to penalties if an approved Clean Portfolio Standard Goal is not achieved or maintained after the plan has been approved. The Rules should also allow for a Commission review upon notice that a participating electric supplier is not using good faith efforts to attain goals.

8. Periodic Rate Adjustments - To balance the interests of participating electric suppliers and customers, the Rules should require participating electric suppliers to undergo an annual review of the participating supplier’s actions and

results toward achievement of the Clean Portfolio Standard Goal for the foregoing twelve month period to determine whether a previously approved tracker mechanism should continue. Similar to the process for initial approval of the periodic rate adjustment outlined in Indiana Code § 8-1-37-13(f), the annual review should result in a determination within 120 days after the review is commenced.

U. S. Steel appreciates the Commission's consideration and looks forward to further collaboration with the Commission through the rulemaking process.

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