

September 23, 2008

INNOVATIVE ENERGY SYSTEMS
Request for Certification for RPS Eligibility

ORDER GRANTING NEW
RENEWABLE RESOURCE
CERTIFICATION

REISHUS, Chairman; VAFIADES and CASHMAN, Commissioners

I. SUMMARY

The Colonie Landfill Gas Facility (Colonie) is certified as a Class I new renewable resource that is eligible to satisfy Maine's new renewable resource portfolio requirement pursuant to Chapter 311, § 3(B) of the Commission rules.

II. BACKGROUND

A. New Renewable Resource Portfolio Requirement

During its 2007 session, the Legislature enacted an Act To Stimulate Demand for Renewable Energy (Act). P.L. 2007, ch. 403 (codified at 35-A M.R.S.A. § 3210(3-A)). The Act added a mandate that specified percentages of electricity that supply Maine's consumers come from "new" renewable resources.¹ Generally, new renewable resources are renewable facilities that have an in-service date, resumed operation or were refurbished after September 1, 2005. The percentage requirement starts at one percent in 2008 and increases in annual one percent increments to ten percent in 2017, unless the Commission suspends the requirement pursuant to the provisions of the Act.

As required by the Act, the Commission modified its portfolio requirement rule (Chapter 311) to implement the "new" renewable resource requirement. *Order Adopting Rule and Statement of Factual and Policy Basis*, Docket No. 2007-391 (Oct. 22, 2007). The implementing rules designated the "new" renewable resource

¹ Maine's electric restructuring law, which became effective in March 2000, contained a portfolio requirement that mandated that at least 30% of the electricity to supply retail customers in the State come from eligible resources, which are either renewable or efficient resources. 35-A M.R.S.A. § 3210(3). The Act did not modify this 30% requirement.

requirement as “Class I”² and incorporated the resource type, capacity limit and the vintage requirements as specified in the Act. The rules thus state that a new renewable resource used to satisfy the Class I portfolio requirement must be of the following types:

- fuel cells;
- tidal power;
- solar arrays and installations;
- wind power installations;
- geothermal installations;
- hydroelectric generators that meet all state and federal fish passage requirement; or
- biomass generators, including generators fueled by landfill gas.

In addition, except for wind power installations, the generating resource must not have a nameplate capacity that exceeds 100 MW. Finally, the resource must satisfy one of four vintage requirements. These are:

- 1) renewable capacity with an in-service date after September 1, 2005;
- 2) renewable capacity that has been added to an existing facility after September 1, 2005;
- 3) renewable capacity that has not operated for two years or was not recognized as a capacity resource by the ISO-NE or the NMISA and has resumed operation or has been recognized by the ISO-NE or NMISA after September 1, 2005; or
- 4) renewable capacity that has been refurbished after September 1, 2005 and is operating beyond its useful life or employing an alternate technology that significantly increases the efficiency of the generation process.

The implementing rules (Chapter 311, § 3(B)(4)) establish a certification process that requires generators to pre-certify facilities as a new renewable resource under the requirements of the rule and provides for a Commission determination of resource eligibility on a case-by-case basis.³ The rule contains the information that must be included in a petition for certification and specifies that the Commission shall provide an opportunity for public comment if a petitioner seeks certification under

² The “new” renewable resource requirement was designated as Class I because the requirement is similar to portfolio requirements in other New England states that are referred to as “Class I.” Maine’s pre-existing “eligible” resource portfolio requirement is designated as Class II.

³ In the *Order Adopting Rule* at 6, the Commission noted that a request for certification can be made at any time so that a ruling can be obtained before a capital investment is made in a generation facility.

vintage categories 2, 3 and 4. Finally, the rule specifies that the Commission may revoke a certification if there is a material change in circumstance that renders the generation facility ineligible as a new renewable resource.

B. Petition for Certification

On August 11, 2008, Innovative Energy Systems (IES) filed a petition to certify the Colonie facility as a Class I renewable resource. The Colonie facility is a 4.8 MW landfill gas facility located in Cohoes, New York. The petition states that that Colonie facility came online in March of 2006.

III. **DECISION**

The Commission has delegated to the Director of Technical Analysis the authority to certify generation facilities as Class I new renewable resources pursuant to Chapter 311, § 3(B) of the Commission rules. *Delegation Order*, Docket No. 2008-184 (April 23, 2008). Based on the information provided by IES, I conclude that the Colonie facility satisfies the resource type, capacity limit and vintage requirements of the rule. The Colonie facility is fueled solely by natural gas, and it was constructed and began operations after September 1, 2005. Accordingly, the Colonie Landfill Gas Facility is hereby certified as a Class I new renewable resource that is eligible to satisfy Maine's new renewable resource portfolio requirement pursuant to Chapter 311, § 3 of the Commission rules.⁴ IES shall provide timely notice to the Commission of any material change in the operation of the facility from that described in the petition filed in this proceeding, including changes to the type of fuel used in the electricity generation process.

BY ORDER OF THE DIRECTOR OF TECHNICAL ANALYSIS

Faith Huntington

⁴ In the petition, IES asks that the facility be considered as eligible as of the date of the application. There are no provisions in Commission rules indicating a point in time in which eligibility becomes effective. Thus, all output from the facility regardless of when it was generated is eligible to satisfy Maine's new renewable resource portfolio requirement.

STATE OF MARYLAND



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#8, 12/12/07 AM; ML#s107912
108591, IR-1140

December 12, 2007

Ms. Deborah Razza
Conservation Services Group
40 Washington Street
Westborough, MA 01581

Dear Ms. Razza:

The Commission has reviewed the Application for Certification as a Renewable Energy Facility for the Maryland Renewable Energy Portfolio Standard Program and additional information filed on October 18, 2007 and December 3, 2007 by Innovative Energy Systems, Inc.

After considering this matter at the December 12, 2007 Administrative Meeting, the Commission granted the application and issued renewable energy facility Certification Number MD-40131-LFG-01 to the Company for the Colonie, LFGTE facility.

Additionally, the Company is reminded that under COMAR 20.61.02.03B, it is obligated to notify the Commission within 30 days of any substantial change to the information contained in its application.

By Direction of the Commission,

A handwritten signature in black ink, appearing to read "Terry J. Romine".

Terry J. Romine
Executive Secretary

TJR/rmw

c: Paula M. Carmody, People's Counsel