

CommonWealth

Resource Management Corporation

21 December 2020

Kathleen Theoharides, Secretary
Massachusetts Executive Office of Energy and Environmental Affairs
Saltonstall Building
100 Cambridge Street, #900
Boston, MA 02114

Dear Secretary Theoharides:

We, the undersigned, are writing to seek your support to reconsider an unreviewed last-minute addition to DOER's proposed changes to the Mass RPS Class I Regulations that could have a severe adverse impact on existing renewable projects that generate electricity from methane recovered from landfills, and from bio-gas created from anaerobic digestion of organic materials including food waste. These projects generate Class I RECs, which provide revenue that is critical to offset operating costs and stay viable into the future.

Our concern is with new proposed language added at the very end of the public comment process that would reduce REC revenues by reducing the cap on the Alternative Compliance Payment (ACP) Rate for RPS Class I projects beginning in 2021. In particular, on December 4, the DOER provided notice on their website that new proposed changes to the regulations had been filed with the Joint Committee on Telecommunications, Utilities and Energy. Our particular concern is with the proposal to add the following language to Section 14.08(3)(a)2 of the RPS regulations at 225 CMR 14.00:

The ACP Rate shall be equal to the previous year's ACP Rate adjusted up or down according to the previous year's Consumer Price Index, but shall be **\$60** per MWh in Compliance Year beginning in 2021, **\$50** per MWh in Compliance Year 2022, and **\$40** per MWh, beginning in Compliance Year 2023 (posted at <https://www.mass.gov/service-details/rps-class-i-ii-rulemaking>).

The ACP Rate for 2020 is **\$71.57** per MWh, based on increases in the CPI from the original ACP Rate of **\$50** per MWh set at the start of the RPS program in 2003. The proposed language would cut the ACP Rate by more than 40% in three years, putting the proposed ACP Rate for 2023 down to **\$40** per MWh. That would be even lower than the ACP of **\$50** per MWh for 2003.

Further, we are extremely concerned that the DOER has not accounted properly for the link between the ACP Rate for Mass. Class I RECs and the market for Clean Energy Credits (CECs) under the Clean Energy Standard (CES) program overseen by the Massachusetts Department of Environmental Protection (MassDEP) pursuant to the regulations at 310 CMR 7.75. In particular, starting in 2021, the ACP Rate for the CES Program will be determined as 0.50 times the rate calculated annually by the DOER

CommonWealth

Resource Management Corporation

for the ACP Rate for the Mass Class I RECs¹. The market prices for CECs are driving the market price for Class 1 RECs. If the ACP Rate for Class I RECs drops to \$40 per MWh by 2023, then the ACP Rate for CECs would drop down to \$20 per MWh. Since market prices are always at a discount to the applicable ACP Rates, the effect would be to drive market prices for CECs, and thus for Class 1 RECs, below **\$20** per MWh by 2023.

The RPS Program has been successful in providing critical financial incentives and support necessary for continued operation of important environmental projects that might not otherwise be economically viable. Projects that reduce methane emissions by extracting gas from landfills and combusting the methane to make electricity are important for achieving the Commonwealth's environmental goals, as are projects for anaerobic digestion of organic waste and combustion of the bio-gas. But the existing projects are only viable if revenues from sales of electricity and Class I RECs can continue to offset operating and maintenance costs. The ACP Rate cuts proposed by the DOER, coming at a time of new historic lows for wholesale electricity prices in regional markets, pose a severe threat to the continuing viability of landfill gas and anaerobic digestion projects that depend on wholesale electric market and REC sales for revenues.

We note that DOER has been working to solicit public comments on changes to the regulations since April 2019. Until this point, DOER had always indicated that ACP Rates would continue to be adjusted based on increases in the CPI. The proposal to decrease rather than increase the ACP Rate starting in 2021 was not incorporated into the proposed changes to the regulations until December 4 of 2020, at the very end of the process. We are concerned that the impacts of the cuts in ACP Rates have not received public review commensurate with the severity of the cuts.

Specifically, it appears that DOER proposed the change in response to comments submitted by the Massachusetts local distribution utilities (Eversource, National Grid and Unitil) regarding the increasing cost of RPS compliance. Through the proposed cuts in the ACP Rate, the DOER is accommodating these utilities without considering impacts on the landfill gas and anaerobic digestion projects that rely on Class I REC sales for continued viability. There has been no public discussion of the impact of the proposed cuts on these projects, no public indication of how many projects would lose their economic viability as a result, and no consideration of the cost to replace the environmental benefits of the lost projects. Moreover, the proposed cuts send a negative signal regarding the Commonwealth's ongoing commitment to sustain long-term support for older renewable projects that, if shut down, would need to be replaced to avoid commensurate decline in the overall availability of energy from renewable sources. In this context, the proposed change to the regulations undermine rather than support the Commonwealth's clean energy goals.

In the Response to Comments issued on December 4, 2020, the DOER states that the decline of the ACP Rate for Mass. Class I RECs to \$40 per MWh will align the Massachusetts RPS program with the Connecticut RPS Class I program. This statement fails to account for the impact of that decline on the

¹ See the CES Program regulations at 310 CMR 7.75 (c)1.a.ii., which refers to the RPS Program regulations at 225 CMR 14.08(3)(a)2.

CommonWealth

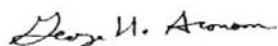
Resource Management Corporation

ACP Rate for CECs in the Massachusetts CES Program, and the feedback that will cause further declines in the market prices for Mass. Class I RECs. Because of that feedback, the proposed changes to the regulations would drive prices for Mass. Class I RECs far below the ACP Rate and prices of Connecticut Class I RECs. The proposed would disrupt regional consistency, not promote it, and would reduce rather than support the necessary value to support Massachusetts efforts to reduce greenhouse gas efforts.

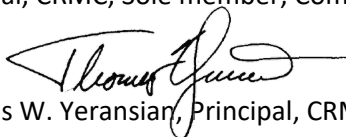
We therefore request your support in reconsidering the proposed cuts to the ACP Rate for Mass. Class I RECs. We ask that you support capping the ACP Rate at \$70 per MWh in 2020 escalating at CPI as originally proposed by the DOER in the draft regulations issued for public review and comment. The ACP Rates originally proposed are needed to sustain the viability of s existing landfill gas and anerobic digestion renewable energy projects in Massachusetts and continue their operation in support of the Commonwealth's clean energy goal.

We are available at your convenience to discuss next steps in addressing this issue.
Thank you in advance for your attention to this matter.

Sincerely,



George H. Aronson
Principal, CRMC, Sole member, CommonWealth New Bedford Energy, LLC



Thomas W. Yeransian, Principal, CRMC (sole member, CommonWealth New Bedford Energy, LLC)

Additional signatories by email

Philip Goddard, President
pgoddard@townofbourne.com

Southern New England Chapter of the Solid Waste Association of North America (SWANA)



Scott Alfonse, Executive Director
scott.alfonse@gnbrmdistrict.org

Greater New Bedford Regional Refuse Management District

CommonWealth

Resource Management Corporation

Daniel Barrett, General Manager

Integrated Solid Waste Management, Town of Bourne, Massachusetts



Benjamin A. Harvey, President

baharvey@elharvey.com

E. L. Harvey and Sons Inc.

Paul Hesson, Director of Power Marketing

phesson1@wm.com

Waste Management Renewable Energy, LLC

Steven J. Poggi, Area Director of Disposal Operations

spoggi@wm.com

Waste Management of Massachusetts, Inc.

Ken Robbins, General Manager MERC

Ken.Robbins@casella.com

Casella Waste Management Corporation

James M. Malandrinos, President

ips1@verizon.net

Industrial Power Services Corp.

Adam Wintle, Managing Director

adam@biogasenergypartners.com>

Biogas Energy Partners

Adam Wintle, Managing Partner

adam@biogasenergypartners.com>

Exeter Agri-Energy

James Schwartz - Vice President

jschwartz@independencesolar.com

Independence Solar

Andrew J. Bernstein, Managing Partner

abernstein@kearsargeenergy.com

Kearsarge Energy LP

CommonWealth

Resource Management Corporation

Distribution

The Honorable Charles (Charlie) Baker, Governor of the Commonwealth of Massachusetts

The Honorable Karyn Polito, Lieutenant Governor of Massachusetts

The Honorable Michael J. Barrett, Chair, Joint Committee on Telecommunications, Utilities and Energy

The Honorable Thomas A. Golden, Jr., Chair, Joint Committee on Telecommunications, Utilities and Energy

Judy Chang, Undersecretary of Energy

David Ismay, Undersecretary - Climate Change

Patrick Woodcock, Commissioner, Department of Energy Resources

Martin Suuberg, Commissioner, Department of Environmental Protection