

STATE OF CONNECTICUT

DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

Petition of Plainfield Renewable Energy, LLC :  
c/o Greenleaf Power, LLC for a Declaratory Ruling :  
on the Applicability of the Phase-Down Exclusion of :  
Connecticut General Statutes Section 16-245a(g) :  
for the Renewable Energy Certificates Generated :  
by PRE's Plainfield Generating Facility : June 16, 2022

**AFFIDAVIT OF BRUCE MCDERMOTT**

I, Bruce McDermott, being duly sworn, depose and say:

1. I am over eighteen years of age and am a resident of Fairfield County, Connecticut.

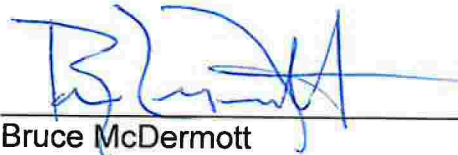
2. I am a partner at the law firm of Murtha Cullina LLP representing Plainfield Renewable Energy, LLC ("PRE") and, as such, am personally familiar with the subject matter of this petition for a declaratory ruling.

3. Pursuant to Section 22a-3a-4 of the General Statutes, I hereby certify that on June 16, 2022 I provided notice via a letter (the "Notice Letter") to the party known by the petitioner to have an interest in the subject matter of PRE's petition for a declaratory ruling (the "Petition") as to whether PRE's biomass facility located in Plainfield Connecticut meets the statutory exemption under Section 16-245a(g) of the General Statutes from any reduction in the value of Renewable Energy Certificates generated by the Facility.

4. I further certify that PRE's Notice Letter contains the substance of the Petition and a notification of the opportunity to file comments with the Commissioner, as well as the right to request party or intervenor status.

5. PRE's Notice Letter containing the known interested party's name, address, and the date of mailing is attached hereto as Attachment A.

6. The statements that I have made herein are true to the best of my knowledge, information and belief.



Bruce McDermott  
Murtha Cullina LLP  
265 Church Street  
New Haven, CT 06510  
203.772.7700  
[bmcdermott@murthalaw.com](mailto:bmcdermott@murthalaw.com)

Subscribed and sworn to before me this 16<sup>th</sup> day of June, 2022.



Notary Public/Commissioner of Superior Court  
My Commission Expires:

Annie W. Lau  
NOTARY PUBLIC  
State of Connecticut  
My Commission Expires 10/31/2023

# **ATTACHMENT A**

BRUCE L. McDERMOTT  
203.772.7787 DIRECT TELEPHONE  
860.240.5723 DIRECT FACSIMILE  
BMcDERMOTT@MURTHALAW.COM

June 16, 2022

William H. Ralston  
Chief Risk Officer  
ReEnergy Holdings LLC  
159 Wolf Road, Suite 301  
Albany, New York 12205

Re: Plainfield Renewable Energy, LLC's Petition for a Declaratory Ruling Regarding the Applicability of the Section 16-245a(g) Statutory Exemption from the Reduction in Value of Renewable Energy Certificates Generated by Biomass Facilities

Dear Bill:

Enclosed is Plainfield Renewable Energy, LLC's ("PRE") petition for a declaratory ruling (the "Petition") regarding the applicability to PRE of the statutory exemption under Connecticut 16-245a(g) from the reduction in value of Renewable Energy Certificates generated by biomass facilities which was filed with the Department of Energy and Environmental Protection ("DEEP") on June 16, 2022.

Under Section 22a-3a-4 of the Connecticut General Statutes, as an interested party you have the opportunity to file comments with the Commissioner of DEEP and to request intervenor or party status.

Very truly yours,



Bruce L. McDermott

Enclosures

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Petition of Plainfield Renewable Energy, LLC :  
c/o Greenleaf Power, LLC for a Declaratory :  
Ruling on the Applicability of the Phase-Down :  
Exclusion of Connecticut General Statutes : June 16, 2022  
Section 16-245a(g) for the Renewable Energy :  
Certificates Generated by PRE's Plainfield :  
Generating Facility :

PLAINFIELD RENEWABLE ENERGY, LLC'S  
PETITION FOR DECLARATORY RULING

I. Introduction

Pursuant to Connecticut General Statutes (“CGS”) §4-176 and section 22a-3a-4 of the Regulations of Connecticut State Agencies (“RCSA”), Plainfield Renewable Energy, LLC c/o Greenleaf Power, LLC (“PRE” or the “Company”) hereby petitions the Commissioner of the Connecticut Department of Energy and Environmental Protection (“DEEP”) for a declaratory ruling regarding the applicability of CGS §16-245a(g), specifically: Does PRE’s biomass facility located in Plainfield, Connecticut (the “Plainfield Facility”) meet the statutory exemption from any reduction in the value of Renewable Energy Certificates (“RECs”) generated by the facility as provided in CGS §16-245a(g)?<sup>1</sup>

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<sup>1</sup> On October 7, 2021, DEEP issued a Notice of Proceeding to Determine Facility Exemption under CGS §16-245a(g). On November 1, 2021, PRE responded to DEEP with a letter requesting confirmation that the Plainfield Facility meets the CGS §16-245a(g) statutory exemption. On December 17, 2021, DEEP issued a response to PRE in DEEP’s Response to Requests for Confirmation of Facility Exemption. DEEP has taken the position that its Response “is not a final decision” of DEEP and therefore PRE must petition the Commissioner for a declaratory ruling on this issue.

As explained in greater length below, it is PRE's position that the Plainfield Facility is exempt from the gradual phasedown of Class I RECs produced by biomass resources pursuant to CGS §16-245a(g) because PRE entered into a power purchase agreement ("PPA") with an electric distribution company in the state of Connecticut on or before June 5, 2013.

II. Background

A. Relevant Facts

The Company owns and operates the Plainfield Facility, a 37.5-megawatt ("MW") biomass electric generating facility with NEPOOL GIS Unit ID MSS15509. The Plainfield Facility is a certified renewable energy source that has been operating since the end of 2013, supplying energy and capacity to New England wholesale and capacity markets. PRE's facility creates clean energy by burning on an annual basis approximately 350,000 tons of clean wood recovered from construction and demolition activities, including sustainable wood from forestry and land-clearing activities. On April 9, 2014, the Public Utilities Regulatory Authority ("PURA") determined that pursuant to CGS §16-1(a), the Plainfield Facility qualifies as a Class I renewable energy source and assigned the facility Connecticut Renewable Portfolio Standard Registration No. CT00666-13. See Docket No. 13-12-22, *Application of Plainfield Renewable Energy, LLC For Qualification of Plainfield Renewable Energy as a Class I Renewable Energy Source*, April 9, 2014 Final Decision at 2.

## B. REC Value Phase-Down

Pursuant to CGS §16-245a(g),<sup>2</sup> DEEP is to “establish a schedule to commence on January 1, 2015, for assigning a gradually reduced renewable energy credit value to all biomass and landfill methane gas facilities that qualify as a Class I renewable energy source.” By statute, however, “any reduced renewable energy credit value ... shall not apply to any biomass ... facility that has entered into a power purchase agreement (1) with an electric supplier or electric distribution company in the state of Connecticut on or before June 5, 2013...”. CGS §16-245a(g).

In the 2020 Integrated Resources Plan, issued on October 7, 2021 (“2020 IRP”), DEEP sets forth its plan to implement the biomass RECs phasedown, specifically, DEEP explains that “eligible generation for Class I biomass RECs will be reduced after 20 years for new facilities and 15 years for existing facilities from the time they were approved as

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<sup>2</sup> CGS Section 16-245a(g) provides in whole:

On or before January 1, 2014, the Commissioner of Energy and Environmental Protection shall, in developing or modifying an Integrated Resources Plan in accordance with sections 16a-3a and 16a-3e, establish a schedule to commence on January 1, 2015, for assigning a gradually reduced renewable energy credit value to all biomass or landfill methane gas facilities that qualify as a Class I renewable energy source pursuant to section 16-1, provided this subsection shall not apply to anaerobic digestion or other biogas facilities, and further provided any reduced renewable energy credit value established pursuant to this section shall not apply to any biomass or landfill methane gas facility that has entered into a power purchase agreement (1) with an electric supplier or electric distribution company in the state of Connecticut on or before June 5, 2013, or (2) executed in accordance with section 16a-3f or 16a-3h. The Commissioner of Energy and Environmental Protection may review the schedule established pursuant to this subsection in preparation of each subsequent Integrated Resources Plan developed pursuant to section 16a-3a and make any necessary changes thereto to ensure that the rate of reductions in renewable energy credit value for biomass or landfill methane gas facilities is appropriate given the availability of other Class I renewable energy sources.

a Class I renewable energy source in Connecticut.” 2020 IRP at 191. For RECs generated at biomass facilities after January 1, 2022, the 2020 IRP states that:

“Class I RECs will still be generated as they have been, but the amount of generation eligible as a Class I resource in Connecticut will decline to 50 percent of the actual generation output from the facility each year. One MWh would still be required to be produced to receive a REC in Connecticut. A REC for a Class I biomass facility would not be treated any differently from CT Class I RECs from other eligible resources for the purpose of supplier compliance. The other 50 percent of the annual generation output, which is not eligible in Connecticut, will still be eligible to be sold to meet RPS requirements in other states, to the extent the resource is eligible to participate in those other state RPS programs.” *Id.*

### III. Discussion

In accordance with PURA’s April 9, 2014 decision and the statutory requirements of CGS §16-1(a)(20), the Plainfield Facility qualifies as a Class I renewable energy source because the facility consumes sustainable biomass fuel as defined in CGS §16-1(a)(20). On May 8, 2008, The Connecticut Light and Power Company d/b/a Eversource Energy (“Eversource”) and PRE entered into a PPA relating to the sale and purchase of electricity produced by the Plainfield Facility, specifically eighty percent (80%) of PRE’s output or thirty (30) MW. See Confidential Attachment 1. On April 12, 2019, Eversource and PRE entered into a second PPA relating to the sale and purchase of the remaining twenty percent (20%) of PRE’s output or 7.5 MW. See Confidential Attachment 2. Thus, the Plainfield Facility is a biomass facility that qualifies as a Class I renewable energy source pursuant to CGS §16-1(a) and the facility entered into a PPA with an electric distribution company in the state of Connecticut prior to June 5, 2013.

Section 5 of Public Act 13-303, codified at CGS §16-245a(g), provides that DEEP must set a schedule for the gradual phasedown in the value of Class I RECs produced



by biomass resources. However, as noted in the 2020 IRP, some biomass facilities may be exempt from this phasedown if they meet the criteria of CGS §16-245a(g), as determined by DEEP. For this reason, this petition seeks a declaratory ruling that the Plainfield Facility meets the statutory exemption from any reduction in the value of RECs.

The plain language in CGS §16-245a(g) provides that there are no conditions or limitations based on the volume purchased by the electric distribution company or the term of the agreement for a facility to meet the eligibility criteria for an exemption from the biomass phasedown. Specifically, CGS §16-245a(g) provides the following exemptions:

any reduced renewable energy credit value established pursuant to this section shall not apply to any biomass or landfill methane gas facility that has entered into a power purchase agreement (1) with an electric supplier or electric distribution company in the state of Connecticut on or before June 5, 2013, or (2) executed in accordance with section 16a-3f or 16a-3h.

The 2020 IRP identifies one facility that meets these criteria and is exempt from any phasedown: “[T]his phasedown will not apply to the Plainfield Renewable Energy facility because it has an existing contract.” 2020 IRP at footnote 380, page 191. The 2020 IRP does not limit or condition the duration of the statutory exemption for the Plainfield Facility in any way.

Consequently, given that the Plainfield Facility meets the criteria under CGS §16-245a(g), the facility should receive a full and unconditional exemption from any biomass REC phasedown. In accordance with CGS §16-245a(g), the RECs generated by the Plainfield Facility are statutorily excluded from any requirement that the eligibility of the RECs be reduced as set forth in CGS §16-245a(g) and the 2020 IRP.

IV. Conclusion

For the foregoing reasons, PRE respectfully requests that DEEP issue a declaratory ruling that the Plainfield Facility is permanently exempt from any phase-down of the REC value implemented pursuant to CGS §16-245a(g), and that 100% of the RECs to be generated by the facility will qualify as Class I RECs under CGS §16-245a.

Respectfully submitted,

PLAINFIELD RENEWABLE ENERGY, LLC



By: \_\_\_\_\_

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