

**In the Matter of** : **September 29, 2022**  
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**Plainfield Renewable Energy, LLC** :  
**c/o Greenleaf Power, LLC** :

**Response to Petition for Declaratory Ruling filed by  
Plainfield Renewable Energy, LLC, c/o Greenleaf Power, LLC**

Plainfield Renewable Energy, LLC c/o Greenleaf Power, LLC (“PRE” or “Petitioner”) filed a petition with the Department of Energy and Environmental Protection (“DEEP” or “Department”) for a declaratory ruling (the “[Petition](#)”) dated June 16, 2022 regarding the applicability of the statutory exemption from any reduction in the value of Renewable Energy Certificates (“RECs”) for biomass resources, as provided in Connecticut General Statutes (“C.G.S.”) §16-245a(g), to its biomass facility located in Plainfield, Connecticut (“the “Plainfield Facility”). It is Petitioner’s position “that the Plainfield Facility is exempt from the gradual phasedown of Class I RECS produced by biomass resources...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.” More specifically, Petitioner seeks a ruling that the Plainfield Facility “should receive a full and unconditional exemption from any biomass REC phasedown.”

Petitioner filed this Petition along with the following supporting documentation: [Attachment 1](#), [Attachment 2](#). DEEP did not receive any further comments on the Petition from any interested parties, including the Petitioner, during the comment period. However, DEEP did issue a [Request for Written Comment](#) to the Petitioner on September 8, 2022, to which Petitioner responded with [Attachment 3](#).

## **I. Background**

Pursuant to C.G.S. §16-245a(g), DEEP is required to establish a schedule for the gradual phasedown of renewable energy credit (“REC”) value for biomass and landfill gas resources that qualify as Class I resources as defined in C.G.S. §16-1.<sup>1</sup> This statute authorizes DEEP to review

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<sup>1</sup> C.G.S. §16-245a(g) provides in whole: (g) 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)

and update the schedule in each subsequent Integrated Resources Plan (IRP) in order to account for current market conditions and ensure that the schedule will not negatively impact Connecticut's ability to meet its renewable portfolio standard (RPS) requirements.

### *Phasedown Implementation Plan*

Per the Final 2020 IRP, released on October 7, 2021, DEEP determined that the phasedown of RECs for Class I biomass resources should take effect beginning January 1, 2022.<sup>2</sup> On and after that date eligible Class I biomass RECs produced by biomass generators will be reduced. Any existing biomass facilities will be subject to the phasedown starting 15 years from their Connecticut Class I Certification date, and new biomass facilities built after January 1, 2022 will begin to be phased down 20 years after their Connecticut Class I Certification.<sup>3</sup> After the initial 15- or 20-year license period ends, the amount of generation eligible as a Class I resource in Connecticut will be reduced for each biomass project to 50 percent of annual output. In other words, 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, would 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.

### *Status of Phasedown Implementation Plan*

Implementing the phasedown of biomass resources as Class I in Connecticut's RPS requires changes to the New England Power Pool Generation Information System (NEPOOL GIS). The NEPOOL GIS serves as the registry and tracking database for renewable energy resources and is used to track compliance with state and regional renewable energy requirements, such as the RPS. Any changes made to NEPOOL GIS must be first voted on and approved by the NEPOOL Markets Committee.

On September 14, 2021, the Markets Committee voted to approve Connecticut's proposed biomass phasedown implementation plan, and any associated technical changes to the GIS.<sup>4</sup> The Department subsequently worked with the administrator of the NEPOOL GIS (APX) to

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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.

<sup>2</sup> See Connecticut Department of Energy and Environmental Protection Integrated Resources Plan, October 2021, pages 191-192, available [here](#). The implementation of this phasedown was voted on and approved at the September 14, 2021 NEPOOL Markets Committee Meeting.

<sup>3</sup> For example, if a facility was certified as Connecticut Class I in 2005, the phasedown would apply to them starting January 1, 2022. If the facility was certified as Connecticut Class I in 2010, the phasedown would apply to them starting in 2025.

<sup>4</sup> See NEPOOL Markets Committee, *Minutes of the NEPOOL Markets Committee Meeting Teleconference/ Webex*. September 13-14, 2021, available at [https://www.iso-ne.com/committees/markets/markets-committee/?sort=publish\\_date\\_dt.desc](https://www.iso-ne.com/committees/markets/markets-committee/?sort=publish_date_dt.desc)

implement the necessary technical changes. These changes were completed in November 2021 and the phasedown implementation went into effect on January 1, 2022, as planned.

## **Findings of Fact**

Petitioner's supporting documentation consisted of two Electricity Purchase Agreements. According to the agreements, the Plainfield Facility has a capacity of 37.5 megawatts. The first agreement was entered into on May 8, 2008 for the purchase of 80% of the output of the Plainfield Facility by Connecticut Light & Power, a predecessor company to Eversource. ("2008 Agreement") See Attachment 1. The terms of the 2008 Agreement state that it will remain in effect "for fifteen (15) years from the In-Service Date." The In-Service Date is defined in this agreement as the date in which a series of conditions set forth in Appendix B of the agreement are met, but in no event later than two years from the original "Scheduled Operation Date" of November 1, 2010.

To assist it with its analysis, DEEP sought information from the Petitioner to determine when the actual in-service date of the Plainfield Facility occurred. In response, Petitioner submitted a letter from Northeast Utilities System that recognizes the In-Service date of this facility as December 31, 2013 and, resultingly, states that the 2008 Agreement will remain in effect until December 31, 2028. See Attachment 3. DEEP therefore recognizes this date as the end of the 2008 Agreement.

Subsequent to the 2008 Agreement, the remaining 20% of the Plainfield Facility's output was then contracted for by Eversource on April 12, 2019. ("2019 Agreement") See Attachment 2. The 2019 Agreement expires after the contract Delivery term, which begins upon receipt of regulatory approval by the Public Utilities Regulatory Authority, which occurred on March 6, 2019,<sup>5</sup> and continues for a period of ten years.

Therefore, DEEP finds that the full output of the Plainfield Facility is currently under contract with an electric distribution company in the state of Connecticut. In addition, the Plainfield Facility had entered into a power purchase agreement with an electric distribution company in the state of Connecticut on or before June 5, 2013.

Finally, DEEP notes that the Plainfield Facility is a biomass facility that currently qualifies as Class I renewable energy source.<sup>6</sup>

## **Determination**

DEEP confirms that the Plainfield Facility currently qualifies for the first category of the statutory exemption from the gradually reduced renewable energy credit value for Class I biomass facilities, as authorized by Conn. Gen. Stat. §16-245a(g). This exemption applies to a facility for the duration of a power purchase agreement that was in place on or before the statutory deadline of June 5, 2013, which, in the case of the Plainfield Facility, was the 2008

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<sup>5</sup> Public Utilities Regulatory Authority Docket 18-07-02 *Application for Review of Power Purchase Agreement with Plainfield Renewable Energy LLC*, decision dated March 6, 2019.

<sup>6</sup> Public Utilities Regulatory Authority Docket 13-12-22, *Application of Plainfield Renewable Energy, LLC for Qualification of Plainfield Renewable Energy as a Class I Renewable Energy Source*, decision dated April 9, 2014 and subsequent Erratum Decision, dated April 30, 2019.

Agreement. DEEP therefore determines that the Plainfield Facility is subject the statutory exemption until December 31, 2028.

In its Petition, PRE states that the exemption in C.G.S. §16-245(g) sets “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.” See Petition page 5. Petitioner points out that DEEP’s determination in the 2020 IRP that the Plainfield Facility meets the criteria of the phasedown similarly “does not limit or condition the duration of the statutory exemption for the Plainfield Facility in any way.” *Id.*

DEEP agrees, as indicated in the 2020 IRP, that the Plainfield Facility meets the criteria for an exemption under C.G.S. §16-245a(g). DEEP also agrees that the exemption applies to the facility itself, not the amount of output for which the facility contracted prior to June 5, 2013. This determination to apply the exemption to the facility itself is based on the statutory language, which provides an exemption for a facility under contract, rather than the output of energy under contract. In addition, this determination is rooted in the practical implications of determining the percentage of output to which the exemption applies, such as in the instance of an options contract, as is the case in the related Petition for Declaratory Ruling, as submitted by ReEnergy Holdings, LLC found [here](#).

However, DEEP disagrees with the “permanent” characterization of the exemption under C.G.S. §16-245a(g), which would allow for PRE to continue to claim Class I renewable status for the Plainfield Facility’s output if it were to continually contract with a Connecticut electric supplier or electric distribution company. Turning to the statute itself, DEEP is directed by C.G.S. §1-2z to ascertain the meaning of a statute “from the text of the statute itself.” The exemption subsection does not solely focus on the biomass facilities that were in existence at the time of its passage, but rather links the qualification for the exemption to power purchase agreements that existing biomass facilities had already executed shortly before the time of its passage. The subsection does not reference future agreements or amendments of agreements past the June 5, 2013 date. Once the agreements that were signed prior to June 5, 2013 expire, this date referenced in the statute cannot be cast aside. A statute must be read as a whole rather than in separate parts. See *Wiseman v. Armstrong*, 269 Conn. 802, 810, 850 A.2d 114 (2004).

In addition, when “construing statutes, we presume that there is a purpose behind every sentence, clause, or phrase used in an act and that no part of a statute is superfluous...” *Lopa v. Brinker Int’l, Inc.*, 296 Conn. 426, 433 (2010) (citation omitted; internal quotation marks omitted.) The contract date reference in C.G.S. §16-245a(g) acts as temporary protection for the financial obligations within contracts that existed at the time the legislation passed, while eventually still allowing for the advancement of the biomass phasedown, a policy goal that will “[allow] more of the State’s funding to be targeted towards eligible zero carbon resources, and better aligning it with its 100% Zero Carbon Target.” See October 2021 IRP, p. 192.

## **Conclusion**

For the reasons stated above, DEEP determines that the full 37.5 MW output of the Plainfield Facility qualifies for an exemption from the gradually reduced renewable energy credit value for Class I biomass facilities under C.G.S. §16-245a(g) until December 31, 2028. This exemption does not apply to the Plainfield Facility ad infinitum. Upon expiration of the exemption, the

amount of generation eligible as a Class I resource in Connecticut will be reduced to 50 percent of annual output 15 years from the facility's Connecticut Class I Certification date.

*Victoria Hackett*  
Victoria Hackett, Interim Deputy Commissioner

September 29, 2022  
Date