

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
PUBLIC UTILITIES COMMISSION

IN RE: SREC GENERATING COMPANY, INC. :  
PETITION FOR DEISGNATION AS AN ELIGIBLE : DOCKET NO. 4311  
RENEWABLE ENERGY RESOURCE :

ORDER

WHEREAS, Effective January 1, 2006, the Rhode Island Public Utilities Commission ("Commission") adopted Rules and Regulations Governing the Implementation of a Renewable Energy Standard ("RES Regulations") including requirements for applicants seeking certification as an Eligible Renewable Energy Resource under the RES Regulations<sup>1</sup> pursuant to the Renewable Energy Act, Section 39-26-1 et. seq. of the General Laws of Rhode Island; and

WHEREAS, On February 16, 2012, SREC Generating Company, Inc. ("Company"), Authorized Representative: Wayne C. Sherwood, CEO, SREC Generating Company, Inc.; 9 Wilson Ave., Bath, NY 14810. Phone: (607) 776-4161 Fax: (607) 776-2293 Email: wsherwood@steubenrec.com) filed with the Commission an application seeking certification for its Steuben Landfill Generator unit, a 3.2 MW Biomass Facility located in Bath, NY, as an eligible New Renewable Energy Resource under the State of Rhode Island RES Regulations; and

WHEREAS, Pursuant to Section 6.0 and other relevant Sections of the RES Regulations, a thirty (30) day period for public comment was provided during which time, no such comments were received, and

WHEREAS, On November 8, 2012, the Company filed a Motion for Waiver of Bilateral Contract ("Motion for Waiver") requirement in Section 5.1(ii)(a) of the RES Regulations which

---

<sup>1</sup> State of Rhode Island and Providence Plantations Public Utilities Commission Rules and Regulations Governing the Implementation of a Renewable Energy Standard – Date of Public Notice: September 23, 2005, Date of Public Hearing: October 12, 2005, Effective Date: January 1, 2006.

requires Generating Facilities in adjacent control areas to enter into a unit specific bilateral contract for the sale and delivery of energy into NEPOOL; and

WHEREAS, In support of the Motion for Waiver, the Company stated that “the energy management team is currently performing weekly scheduling into the ISO-NE Day Ahead and Real Time Markets. This entails scheduling into the hourly, Day Ahead, Real Time markets within the NYISO and ISO-NE, and linking the schedules from the NYISO to the schedules done in the ISO-NE through a NERC Web Tagging Procedure. On a monthly basis utilizing settlement data from the NYISO and ISO-NE, hourly generation and exports are determined/reviewed and REC claims are performed in the NEPOOL GIS. This supporting data is then sent to the GIS Administrator for final review/approval prior to the GIS Administrator’s issuance of Company Renewable Energy Certificates (“RECs”).

WHEREAS, On November 21, 2012, in response to Commission request, the Commission received a letter from the NEPOOL GIS Administrator confirming the importing process described by the Company in its Motion for Waiver and also stating that NEPOOL Operating “Rule 2.7(c) references certification by the importer attesting the imported credits have not been represented in other regions outside of the ISO-NE...”

WHEREAS, At an Open Meeting conducted on December 20, 2012, the Commission considered the Company’s s Motion for Waiver and found that the purpose of the provision of the law and Commission’s RES Regulations was to ensure that RECs from generators in adjacent control areas will not be “sold, retired, claimed...or used to satisfy obligations in jurisdictions other than Rhode Island.” A review of NEPOOL’s Operating Rules shows that while NEPOOL has previously had a definition for unit-specific bilateral contract, the term is no longer used and is likely an obsolete requirement. Furthermore, there are currently controls in place to track the

RECs and ensure they are not subject to double-counting. Therefore, where the RES Regulations and law requires something no longer recognized in the industry which, if applied strictly to applicants, may hinder the ability of Obligated Entities in Rhode Island from procuring sufficient RECs below the cost of alternative compliance payments, and raise costs to ratepayers, the Commission will act under its authority to implement the Renewable Energy Standard under R.I.G.L. § 39-26-1 et seq. and its plenary authority under R.I.G.L. § 39-1-38 to read the Title broadly in order to effectuate the purpose of the provision which is to ensure RECs from adjacent control used to satisfy RECs in Rhode Island are only counted for Rhode Island. Accordingly, the Waiver is granted.

WHEREAS, After examination of the submissions and with approval of the Motion for Waiver, the Commission determined at an Open Meeting held on January 9, 2013 that the application is proper, reasonable and in compliance with the RES Regulations, and hereby grants the Company certification as an eligible renewable energy resource pursuant to the Renewable Energy Act, Section 39-26-1 et. seq. of the General Laws of Rhode Island; and

WHEREAS, The Commission's determination in this docket is based on the information submitted by the Company and the Commission may reverse its ruling or revoke the Applicant's certification if any material information provided by the Applicant proves to be false or misleading.

Accordingly, it is

(20917) ORDERED:

1) That SREC Generating Company, Inc.'s Motion for Waiver of Bilateral Contract is granted.

2) That the Steuben Landfill Generator, meets the requirements for eligibility as a New, Eligible Biomass Renewable Energy Resource with its 3.2 MW, Grid-Connected Generation Unit having a Commercial Operation Date of October 29, 2010 and located within a Control Area Adjacent to NEPOOL in Bath, NY.

3) That the Generation Unit's NEPOOL GIS Identification Number is IMP35296.

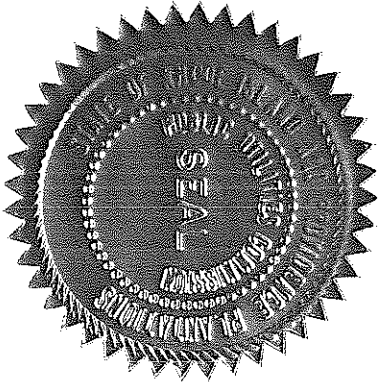
4) That the Company's Generation Unit as identified above is hereby assigned unique certification number RI-4311-N12.

5) That, although the Commission will rely upon the NEPOOL GIS for verification of production of energy from the Company's Generation Unit certified as eligible in this Order, the Company will provide information and access as necessary to the Commission, or persons acting at its behest, to conduct audits or site visits to assist in verification of continued eligibility for and compliance with RI RES Certification at any time at the Commission's discretion. Such continuing verification shall include a quarterly affidavit and supporting documents for use of eligible fuels.

6) That the Company shall notify the Commission in the event of a change in the facility's eligibility status.

DATED AND EFFECTIVE AT WARWICK, RHODE ISLAND ON JANUARY 9, 2013  
PURSUANT TO OPEN MEETING DECISIONS ON DECEMBER 20, 2012 AND JANUARY  
9, 2013. WRITTEN ORDER ISSUED JANUARY 9, 2013.

PUBLIC UTILITIES COMMISSION



*Elia Germani*

Elia Germani, Chairman

*Mary E. Bray*

Mary E. Bray, Commissioner

*Paul J. Roberti*

Paul J. Roberti, Commissioner

**NOTICE OF RIGHT OF APPEAL PURSUANT TO R.I.G.L. SECTION 39-26.1-7(d) REFERENCING SECTION 39-5-1, ANY PERSON AGGRIEVED BY A DECISION OR ORDER OF THE COMMISSION MAY, WITHIN SEVEN DAYS (7) DAYS FROM THE DATE OF THE ORDER, PETITION THE SUPREME COURT FOR A WRIT OF CERTIORARI TO REVIEW THE LEGALITY AND REASONABLENESS OF THE DECISION OR ORDER.**