

**STATE OF VERMONT  
PUBLIC UTILITY COMMISSION**

Case No. 24-3359-INV

---

Investigation of the standard-offer contract between Vermont Renewable Gas, LLC and the Standard Offer Facilitator	
--	--

---

**GREEN MOUNTAIN POWER’S RESPONSE  
TO THE COMMISSION’S REQUEST FOR BRIEFING**

Green Mountain Power (“GMP”) provides the following response to the Vermont Public Utility Commission’s (“Commission”) November 7, 2024 Request for Briefing in the above-captioned matter. The Commission requested briefing on several issues relating to whether Vermont Renewable Gas, LLC’s (“VRG”) proposed Project is properly considered a plant “using methane derived from an agricultural operation” as contemplated by 30 V.S.A. §§ 248, 8002(21), and 8005a.<sup>1</sup> GMP’s response begins with a background summarizing its understanding of the proposed Project, which is followed by a discussion of the Commission’s request for briefing on several specific subjects.

**Background**

In this case, VRG proposes a Project referred to as a “combined electric generation and biochar carbon removal facility” that would generate electricity using feedstocks from a variety of sources, including the following:

- 1) wood fiber and wood fiber byproducts from Christmas tree, maple sap, horticultural, and orchard crop production,
- 2) wood fiber from timber grown and harvested as short-rotation tree crops grown for energy production,
- 3) wood fiber from timber purposefully harvested from woodlots on farms and grown for energy production, and
- 4) wood fiber byproducts from timber grown and harvested from woodlots on farms.<sup>2</sup>

---

<sup>1</sup> PUC Order (Nov. 7, 2024) at 8.

<sup>2</sup> Dell’Olio pf. (Dec. 12, 2024) at 20.

VRG estimates that of the “51% of feedstock material falling within these categories” 30% of that 51% will be the first category above, while 70% of the 51% will be sourced from categories 2 through 4 above. The remainder of the feedstock is “non-farm clean woody residuals.”<sup>3</sup>

VRG states that the Project uses a High Temperature Ablative Pyrolysis (“HTAP”) process that decomposes organic waste in an oxygen free environment to produce a renewable fuel gas containing methane. According to VRG, this is a different process than anaerobic digestion and the biogas produced at the plant is different from the biogas typically derived from a farm methane project that uses manure to create methane through an anaerobic digestion; anaerobic digestion using livestock or manure is said to result in a biogas that is 50% - 70% methane, while VRG states that the fuel gas they use creates a gas that is 27% methane, 30% carbon monoxide, and 36% hydrogen.

### **Discussion**

The Commission first requests that parties “address the applicability and relevance of the portions of 30 V.S.A. §§ 248, 8002(21), and 8005a that deal with renewable energy plants using methane derived from an agricultural operation,” and “whether VRG’s pyrolysis process is consistent with statutory intent, including whether farm-based feedstocks fed into pyrolysis process is more appropriately classified in the biomass category for the purposes of the Standard Offer Program.”<sup>4</sup> It is not apparent that VRG’s proposed Project is consistent with the statutory intent set forth in the above referenced statutes.

The Standard Offer Program under 30 V.S.A. § 8005a includes both specific technology allocations under Section 8005a(c)(2) and allows certain projects “outside the cumulative capacity” under Section 8005a(d), which includes a plant “using methane derived from an

---

<sup>3</sup> Case No. 24-2797-PET, Skorokhodov pf. (Aug. 26, 2024) at 7-8.

<sup>4</sup> PUC Order (Nov. 7, 2024) at 8.

agricultural operation.” Eligibility for the Standard Offer Program is also limited to “renewable energy” plants,<sup>5</sup> which is itself limited under 30 V.S.A. § 8002(21) to plants that use “renewable energy resources.” Section 8002(21) also specifically limits “renewable energy resources” from “methane gas and other flammable gases” to those that are “produced by the decay of sewage treatment plant wastes or landfill wastes and *anaerobic digestion of agricultural products, byproducts, or wastes, or of food wastes...*”<sup>6</sup> Gases produced in another manner are not contemplated as renewable resources. The statute also states that no other “solid waste” “other than silvicultural waste” can be considered renewable.<sup>7</sup>

This statutory language raises some questions about whether a gas produced entirely from silvicultural waste using a process that is not considered anaerobic digestion meets the definition of a renewable resource. Legislative intent for the farm methane category, however, is also expressly discussed in the Legislature’s findings in Act No. 159 of 2009, “An act relating to renewable energy,” which strongly suggests that the “farm methane” category was created in the Standard Offer Program based on “cow power” projects pursued by Vermont utilities prior to the Standard Offer.<sup>8</sup> Accordingly, if there is any ambiguity in the statutory language itself, it seems clear the Legislature was contemplating a category in standard offer that reflected the existing “farm methane projects” at that time, which appears to be limited to “methane gas and other

---

<sup>5</sup> 30 V.S.A. § 8005a(b) (“To be eligible for a standard offer under this section ... [a plant] must be a new standard offer plant,” which means a “renewable energy plant that is located in Vermont, that has a plant capacity of 2.2 MW or less, and that is commissioned on or after September 30, 2009.”).

<sup>6</sup> 30 V.S.A. § 8002(21).

<sup>7</sup> *Id.*

<sup>8</sup> The findings specifically discuss “use by electric utilities of agricultural methane electric generation plants, sometimes called ‘cow power,’” and refer to “producing electricity through anaerobic digestion of wastes from farm animals and other sources.” The 2009 findings also expressly state that the standard offer program under Section 8005 was enacted because of the “success demonstrated” by “cow power” projects that “helped pave the way” for the standard offer initiative.

<https://legislature.vermont.gov/Documents/2010/Docs/ACTS/ACT159/ACT159%20As%20Enacted.pdf>

flammable gases” that are produced by “anaerobic digestion of agricultural products, byproducts, or wastes, or of food wastes.”<sup>9</sup>

The Commission also requested that parties address “how or whether the feedstocks proposed for the Facility meet the statutory definition of agricultural products, byproducts, or wastes.” While other parties may have more expertise regarding what constitutes “agricultural products, byproducts, or wastes, “ it is not clear whether all of VRG’s proposed feedstock sources would meet the definition of “farming” under 10 V.S.A. § 6001(22). Section 6001(22) includes, “the cultivation or other use of land for growing food, fiber, Christmas trees, maple sap, or horticultural and orchard crops,” and VRG appears to assume that “wood fiber from timber grown and harvested as short-rotation tree crops grown for energy production” fits this category.<sup>10</sup> It is unclear, however, how the Legislature distinguishes between “farming,” “forestry,” “silvicultural” or other terms that are widely used in Vermont statute. It is also unclear whether the term “fiber” under Section 6001(22) should be interpreted to include woody tree fibers from silvicultural activity when the statute expressly refers to “Christmas trees” and “horticultural and orchard crops” but does not reference silviculture as is done elsewhere in Title 10.<sup>11</sup>

### **Conclusion**

The statutory language discussed above creates ambiguity around VRG’s eligibility under the farm methane category. Additionally, the Standard Offer Program creates special treatment for farm methane projects in several ways, including the retention of renewable energy credits.

---

<sup>9</sup> 30 V.S.A. § 8002(21).

<sup>10</sup> 10 V.S.A. § 6001(22).

<sup>11</sup> 10 V.S.A. § 374b (“Farm operation” means the cultivation of land or other uses of land for the production of food, fiber, horticultural, silvicultural, orchard, maple syrup, Christmas trees, forest products, or forest crops; the raising, boarding, and training of equines, and the raising of livestock; or any combination of the foregoing activities.).

As a result, the Project's output would create substantial costs for GMP's customers without contributing to Renewable Energy Standard requirements. Given the Legislature's intent to support Vermont agriculture through the farm methane category, the associated expense for Vermont electric customers under this category, and the ambiguities discussed above, GMP looks forward to reviewing this issue further and responding to additional briefing on this matter.

DATED at Burlington, Vermont, on this 23<sup>rd</sup> day of January, 2025.

**GREEN MOUNTAIN POWER**

By: /s/Owen J. McClain  
Owen J. McClain, Esq.  
SHEEHEY FURLONG & BEHM P.C.  
30 Main Street, 6th Floor  
P.O. Box 66  
Burlington, VT 05402  
[omclain@sheeheyvt.com](mailto:omclain@sheeheyvt.com)