

**STATE OF VERMONT
PUBLIC UTILITY COMMISSION**

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

Case No. 24-3359-INV

REPLY BRIEF OF THE VERMONT AGENCY OF NATURAL RESOURCES

On November 7, 2024, the Vermont Public Utility Commission (“Commission”) issued an order opening this investigation, pursuant to 30 V.S.A. §§ 209(a)(8) and 8005a(b)-(d), to review whether the Facility proposed in Case No. 24-2797-PET is eligible for a standard offer contract outside the cumulative capacity limit of the standard offer program as a plant using methane derived from an agricultural operation (“Order”). The Order requested briefing from the parties on specific issues related to the Facility and the farm methane category of the standard offer program.

Initial briefs were filed by the Vermont Department of Public Service (“Department”), Vermont Renewable Gas, LLC (“VRG”), and Green Mountain Power (“GMP”), on January 23, 2025, and by the Vermont Agency of Agriculture, Food and Markets (“AAFM”), on January 27, 2025. The Vermont Agency of Natural Resources (“Agency”) did not file an initial brief. The Agency has reviewed the initial briefs filed by the parties and now submits this reply.

As the parties have discussed, a central issue in this investigation is the need to determine whether a majority of the feedstock proposed to be utilized by the Facility would be derived from an “agricultural operation.” This necessitates defining an agricultural operation as well as examination of the types and sources of the proposed feedstocks, including the manner and purpose of their production. If it is determined that

at least 51% of the Facility's feedstocks are derived from an agricultural operation there is still the need to establish whether this type of Facility is consistent with the intent of the standard offer program's farm methane category.

An Agricultural Operation

AAFM's brief examines the meaning of "farming," noting that a commonly used definition of farming in Vermont¹ "includes many activities involving trees, including Christmas trees, maple sap, orchard crops, and the production of maple syrup as specific 'farming' activities."² AAFM notes that "trees and forestland are major constituent parts of Vermont farms,"³ and suggests that when farms harvest trees and use the resulting products or wastes for farm operations, the "feedstock" is from an "agricultural operation."⁴ In the section of its brief addressing the need to define the standard offer term "an agricultural operation," AAFM states:

AAFM does not regulate typical forestry practices that are unrelated to farming, like harvesting trees for pulp, lumber, or firewood. Trees are present, plentiful, and important on farm parcels, and their growth and management may constitute "farming," but *AAFM does not believe logging or forestry activities unrelated to farming activities are properly construed as "farming" under 10 V.S.A. 6001(22).*⁵

The Agency agrees with AAFM's proposition that harvesting trees from a woodlot on a farm for purposes unrelated to farming (e.g., pulp, lumber, or firewood) is a timber harvest (i.e., logging as opposed to farming).⁶ However, the question remains as

¹ 10 V.S.A. 6001(22). In its Order opening this investigation, the Commission noted that in its "past decisions implementing the Standard Offer Program, the Commission has been guided by the definition of "farming" contained in 10 V.S.A. § 6001(22)." Order of 11/7/24 at 8.

² AAFM brief at 3.

³ *Id.* at 5.

⁴ *Id.* at 7.

⁵ *Id.* at 8. Emphasis added.

⁶ "Timber harvest" means a forestry operation involving the harvest of timber. 10 V.S.A. § 2602(8). "Forestry operation" means activities related to the management of forests, including a timber harvest;

to whether the byproduct of the “non-farming” timber harvest may be considered as derived from “an agricultural operation” because the land on which the harvest takes place is owned by a farming entity.⁷ For purposes of this investigation, the Agency does not take a position as to how the term “agricultural operation” should be defined in the context of the standard offer program and instead defers to AAFM.

The Farm Methane Category

The Agency does not take a position here as to whether the proposed Facility is consistent with the intended scope and purpose of the farm methane standard offer category. The Agency acknowledges the unique nature of this category, its past utilization, and potential ratepayer implications, and defers to DPS on those issues in this proceeding.

Dated February 13, 2025, at Waterbury, Vermont.

Respectfully submitted,
Vermont Agency of Natural Resources



By:

Donald J. Einhorn, Esq.
Office of General Counsel

pruning; planting; reforestation; pest, disease, and invasive species control; wildlife habitat management; and fertilization. “Forestry operation” includes the primary processing of forest products of commercial value on a parcel where the timber harvest occurs. 10 V.S.A. § 2602(6).

⁷ The Agency’s experience administering properties enrolled under the forestry portion of Vermont’s use value appraisal program (“UVA” or Current Use”), *see generally* 32 V.S.A. § 3755, indicates that it is not unusual for farm owners to enroll their properties in both the UVA agricultural and managed forestland categories when the farm parcel includes at least 25 acres of forestland. In these scenarios, the Agency acknowledges that there may be non-farming activities taking place (i.e., timber harvesting) which add revenue streams that support farm viability.