I. SUMMARY

This Order certifies the Village Green Ventures, LLC anaerobic digestion facility (Facility) located in Brunswick, Maine is a Class I renewable resource as eligible to satisfy Maine’s new renewable resource portfolio requirement pursuant to Chapter 311, § 3(B) of the Commission’s Rules, subject to the use of the fuel types specified in this Order.

II. BACKGROUND

A. New Renewable Resource Portfolio Requirement

During its 2007 session, the Legislature enacted an Act To Stimulate Demand for Renewable Energy (Act). P.L. 2007, ch. 403 (codified at 35-A M.R.S.A. section 3210(3-A)). The Act added a mandate that specified percentages of electricity that supply Maine’s consumers come from “new” renewable resources.¹ Generally, new renewable resources are renewable facilities that have an in-service date, resumed operation or were refurbished after September 1, 2005. The percentage requirement starts at one percent in 2008 and increases in annual one percent increments to ten percent in 2017, unless the Commission suspends the requirement pursuant to the provisions of the Act.

As required by the Act, the Commission modified its portfolio requirement rule (Chapter 311) to implement the “new” renewable resource requirement. Order Adopting Rule and Statement of Factual and Policy Basis, Docket No. 2007-391 (Oct. 22, 2007). The implementing rules designated the “new” renewable resource requirement as

¹ Maine’s electric restructuring law, which became effective in March 2000, contained a portfolio requirement that mandated that at least 30% of the electricity to supply retail customers in the State come from eligible resources, which are either renewable or efficient resources. 35-A M.R.S.A. § 3210(3). The Act did not modify this 30% requirement.
“Class I” and incorporated the resource type, capacity limit, and the vintage requirements as specified in the Act. The rules thus state that a new renewable resource used to satisfy the Class I portfolio requirement must be of the following types:

- fuel cells;
- tidal power;
- solar arrays and installations;
- wind power installations;
- geothermal installations;
- hydroelectric generators that meet all state and federal fish passage requirement; or
- biomass generators, including generators fueled by landfill gas.

Since the most recent revision of Chapter 311, Section 3210 was amended to add, as a Class I eligible resource, the “[a]naerobic digestion of by-products of waste from animals or crops, food or vegetative material, algae or organic refuse.” See L.D. 589, An Act To Increase the Beneficial Reuse of Waste Materials (127th Legis. 2015).

In addition, except for wind power installations, the generating resource must not have a nameplate capacity that exceeds 100 MW. Finally, the resource must satisfy one of four vintage requirements. These are:

1) renewable capacity with an in-service date after September 1, 2005;

2) renewable capacity that has been added to an existing facility after September 1, 2005;

3) renewable capacity that has not operated for two years or was not recognized as a capacity resource by the ISO-NE or the NMISA and has resumed operation or has been recognized by the ISO-NE or NMISA after September 1, 2005; or

2 The “new” renewable resource requirement was designated as Class I because the requirement is similar to portfolio requirements in other New England states that are referred to as “Class I.” Maine’s pre-existing “eligible” resource portfolio requirement is designated as Class II.

3 Although anaerobic digestion is not explicitly included in Chapter 311, under the previous Section 3210 and past Commission orders, anaerobic digestion has been considered Class I eligible, within certain constraints, as a biomass fuel. See, e.g., Lewiston-Auburn Water Pollution Control Authority Request for Certification for RPS Eligibility, Docket No. 2012-00549, Order Granting New Renewable Resource Certification (Mar. 6, 2013).
4) renewable capacity that has been refurbished after September 1, 2005 and is operating beyond its useful life or employing an alternate technology that significantly increases the efficiency of the generation process.

Chapter 311, section 3(B)(4) of the Commission’s rules establishes a certification process that requires generators to pre-certify facilities as a new renewable resource under the requirements of the rule and provides for a Commission determination of resource eligibility on a case-by-case basis. The rule contains the information that must be included in a petition for certification and specifies that the Commission shall provide an opportunity for public comment if a petitioner seeks certification under vintage categories 2, 3, or 4. Finally, the rule specifies that the Commission may revoke a certification if there is a material change in circumstance that renders the generation facility ineligible as a new renewable resource.

B. Petition for Certification

On June 7, 2017, Green Harbor Energy (Green Harbor) filed a petition on behalf of Village Green Ventures, LLC (Village Green) to certify the Facility as a Class I New Renewable Resource under the new generation provision of the Commission’s renewable resource portfolio rules. Ch. 311, § 3(B)(3)(a). The 925 kW combined heat and power Facility is located in Brunswick, Maine and is fueled exclusively with methane and carbon dioxide gas generated by anaerobic generation of “biosolids (partially treated human waste sludge)”. The petition states that the Facility commenced commercial operation on April 1, 2016.

Commission Staff issued an information request on June 20, 2017 requesting additional details about the Facility. Green Harbor filed responses on June 29, 2017 clarifying that the Facility’s biomass fuel source consists of food waste, fats/oils/greases, sewage sludge, septic waste, and other organic wastes. The petitioner further stated that the Facility is behind the meter.

III. DECISION

The Commission has delegated to the Director of the Electric and Gas Division the authority to certify generation facilities as Class I new renewable resources pursuant to Chapter 311, § 3(B) of the Commission Rules. Delegation Order, Docket No. 2008-184 (April 23, 2008). Based on the information provided by Green Harbor, I conclude that the Facility satisfies the capacity limit and vintage requirements of the Rule. The Facility’s capacity does not exceed 100 MW, and it has commenced commercial operations after September 1, 2005. The Facility is fueled by the anaerobic digestion of organic refuse, which is an eligible fuel in accordance with 35-A M.R.S. § 3210(B-3)(1)(g) and Chapter 311 of Commission Rules.

4 In the Order Adopting Rule at 6, the Commission noted that a request for certification can be made at any time so that a ruling can be obtained before a capital investment is made in a generation facility.
Accordingly, the Village Green Facility is hereby certified as a Class I new renewable resource that is eligible to satisfy Maine’s new renewable resource portfolio requirement pursuant to Chapter 311, § 3(B)(3)(a) of the Commission rules. Village Green, or the Facility’s successive owner or operator, shall provide timely notice to the Commission of any material change in the operation of the Facility, including the type of fuel used in the generation process, from that described in the petition filed in this proceeding.

As required for our certifications of behind-the-meter facilities seeking to participate in the Maine Class I market, Village Green must retain or otherwise obtain RECs from NEPOOL GIS or the northern Maine NAR necessary to satisfy Maine’s RPS (both the original 30% (Maine Class II) and the “new” requirement (Maine Class I)) for that portion of the behind-the-meter load that is served by the Facility. See Lincoln Paper and Tissue, LLC, Request for Certification for RPS Eligibility, Docket No. 2008-173, Order Granting New Renewable Resource Certification at 8 (Jan. 27, 2009). Village Green shall submit to the Commission an annual report by July 1st of each year that demonstrates compliance with this requirement.

Dated at Hallowell, Maine, this 14th day of July, 2017.

BY ORDER OF THE DIRECTOR OF THE ELECTRIC AND GAS UTILITY INDUSTRIES

Faith Huntington
NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. **Reconsideration** of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought. Any petition not granted within 20 days from the date of filing is denied.

2. **Appeal of a final decision** of the Commission may be taken to the Law Court by filing, within 21 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.

3. **Additional court review** of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

**Note:** The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.