I. SUMMARY

Bay4 Energy Services, LLC (BES) filed a petition on November 6, 2017 requesting certification of its 1.02 MW solar-powered generating facility located at the South Portland Landfill, 929 Highland Ave, South Portland, ME 04106 (the “Facility”) as a Class I renewable resource that is eligible to satisfy Maine’s new renewable resource portfolio requirement pursuant to Chapter 311, § 3(B) of the Commission rules. For the reasons set forth below, the petition is granted.

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. 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

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.
requirement as “Class I”\textsuperscript{2} 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.

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

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.\textsuperscript{3} 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

\textsuperscript{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.

\textsuperscript{3} 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.
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

In its petition, BES requested that the Facility be certified as a Class I new renewable resource as a renewable project with an in-service date after September 1, 2005. According to the petition, the 1.02 MW Facility is a solar resource and was scheduled to commence commercial operations on November 6, 2017.

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 BES, I conclude that the Facility satisfies the resource type and vintage requirements of the rule. The Facility is fueled solely by solar and commenced commercial operations after September 1, 2005.

Accordingly, the BES 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. BES or the Facility’s successive owner or operator, shall provide timely notice to the Commission of any material change in the characteristics or operation of the Facility from that described in the petition filed in this proceeding.

Dated at Hallowell, Maine, this 8th day of November, 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.