

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application by Coal)
Gas Transportation LLC for Certification)
as an Ohio Renewable Energy Resource)
Generating Facility) Case No. 14-1515-EL-REN
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**COAL GAS TRANSPORTATION LLC’S MEMORANDUM IN RESPONSE TO THE
STAFF REPORT OF THE PUBLIC UTILITIES COMMISSION OF OHIO**

Coal Gas Transportation LLC (“CGT” or “Applicant”) respectfully files this memorandum with the Public Utilities Commission of Ohio (“PUCO”) in response to the PUCO’s staff (“Staff”) report regarding CGT’s application for certification of its methane-capturing facility as an Ohio renewable energy resource generating facility. The purpose of this memorandum is to demonstrate that Staff’s recommendation to deny certification is improper for numerous factual and legal reasons, as well as significant negative energy, economic, and environmental consequences for Ohio.

I. PROCEDURAL BACKGROUND

On September 3, 2014, CGT filed an application for certification of a renewable energy resource facility. The facility is located at 46565 Upper Clear Fork Road, Cadiz, Ohio 43907. The facility extracts and captures coal mine methane contained in three abandoned coal mines in Ohio. After removal, CGT blends the coal mine methane with natural gas and delivers the final product to Dominion East Ohio.

On September 22, 2014, the PUCO suspended the automatic approval of the application so that Staff could inquire with CGT in more detail about the facility. On

October 3, 2014, CGT filed its responses to Staff's first set of questions and on November 7, 2014, CGT filed its responses to Staff's second set of questions.

On January 29, 2015, Staff submitted its review and recommendation of CGT's application and recommended disapproval of certification of CGT's facility as an Ohio renewable energy resource generating facility. In its report, Staff concluded that certification was not appropriate because CGT's facility does not generate biologically derived methane gas and does not include an electricity component. Additionally, Staff recommended rejecting certification on the basis that CGT's facility did not meet the placed in-service date requirement. Lastly, Staff cautioned that certification may result in the double-counting of renewable energy credits ("RECs").

II. LEGAL ANALYSIS

PUCO should consider a number of factors when evaluating CGT's application and considering Staff's recommendation. These factors are as follows: (1) R.C. 4928.64(B)(3) permits certification of a facility capturing methane gas emitted from an abandoned coal mine, regardless of whether it contains an electricity component; (2) the modifications to the three methane-capturing sites after January 1, 1998 were so material as to combine them into one in compliance with the placed in-service date requirement; (3) the risk of double-counting of RECs by CGT and the University of Cincinnati ("UC") is negligible and insufficient to justify denying certification; and (4) failure to certify CGT's facility will result in the facility being shut down, accompanied by energy, economic, and environmental setbacks for Ohio.

A. R.C. 4928.64(B)(3) permits the certification of a facility capturing methane gas emitted from an abandoned coal mine

In order to qualify for RECs, “renewable energy resources do not have to be converted into electricity.” R.C. 4928.645(B)(1). However, in order to determine the number of RECS to which an applicant is entitled, the quantity of energy (e.g. the number of megawatts) derived from a given output of methane gas must be computed. R.C. 4928.645(B)(1). PUCO is required to adopt rules specifying that one unit of credit shall equal one megawatt hour of electricity derived from renewable energy resources. R.C. 4928.645(B)(1). Moreover, the rules shall specify that, for purposes of converting the quantity of energy derived from biologically derived methane gas to an electricity equivalent, one megawatt hour equals 3,412,142 British thermal units. R.C. 4928.645(B)(1).

As Staff indicates in its recommendation, qualified energy resources, defined by statute, include “methane gas emitted from an abandoned coal mine.” R.C. 4928.01(A)(37). But Staff further asserts that abandoned coal mine methane was not included in subsequent amendments for purposes of mathematically converting biologically derived methane gas into an electricity equivalent. Staff, therefore, believes that abandoned coal mine gas was not intended to be eligible for REC benefits.

Staff places much emphasis on the fact that Senate Bill 310, which amended R.C. 4928.645(B)(1), did not specifically include methane gas emitted from an abandoned coal mine to support its contention that such methane gas is not eligible for certification. Staff also uses the PUCO’s definition of “biologically derived methane gas,” which does not explicitly include abandoned methane gas from a coal mine, to demonstrate that the conversion factors do not apply to CGT’s facility. *See* O.A.C. 4901:1-40-01(D).

Staff's contentions are incorrect for a number of reasons. To begin, abandoned coal mine methane gas is chemically indistinguishable from biologically derived methane gas. The origin of the methane gas is irrelevant for purposes of meeting the certification standards. If landfill-based methane gas – which is specifically mentioned in the definition of “biologically derived methane gas” under O.A.C. 4901:1-40-01(D); – is chemically indistinguishable from an abandoned coal mine methane gas, then such gases should be treated equally for purposes of calculating RECs. Methane from a landfill and methane from an abandoned coal mine are both contemplated in the plain language of the statute as renewable energy resources; therefore, facilities that generate methane from either of these sources should be eligible for certification as renewable energy generating facilities. This outcome favors Ohio's energy and environmental goals.

Further, certification is not limited exclusively to electricity providers. Such a stance would upset the purpose of certification, which is to encourage the development and use of renewable energy resources. It is counterintuitive to discourage the collection of methane gas from a coal mine merely because the collecting entity does not itself have an electricity component.

B. CGT's modifications to the abandoned coal mines after January 1, 1998 were so material that the subsequently-created facility meets the definition of a renewable energy resource

In order to qualify for certification as an Ohio renewable energy resource generating facility, the renewable energy resource must have been created on or after January 1, 1998 or by modification to the facility after the same date, or it must have a placed in-service date of January 1, 1998 or after. R.C. 4928.64(A)(1). CGT contends that although methane gas was collected from some of the coal mines prior to January 1,

1998, substantial and material modifications were made to the coal mines after that date to combine the project into one facility, satisfying the January 1, 1998 date requirement. Nevertheless, Staff contends that, at most, only that portion of the facility extracting abandoned coal mine methane from the Hopedale mine satisfies the January 1, 1998 requirement. But this position discounts the creation of one methane-collecting facility after January 1, 1998.

In total, between 1998 and 2005, twenty-nine (29) wells were drilled, thirty (30) miles of new gathering pipeline was laid, twenty-nine (29) new pipeline connections were made, and a nine (9) mile sales line pumping the entire output of the facility to the Dominion East Ohio line was completed. After CGT entered into partnership with the prior owners in March 2005, fourteen (14) new wells were drilled and numerous upgrades and additional modifications were made, totaling over two million dollars (\$2,000,000) by the end of 2013. These post-January 1, 1998 modifications created a unified facility of methane gas collection. Although methane gas from two (2) of the mines that contribute to the current facility was captured and flared from various well sites prior to that date, these separate wells were not consolidated or operated as one facility until these modifications were made. Only after January 1, 1998, and after extensive modifications to the different well sites, did CGT unify the system. The facility, therefore, began producing a renewable energy resource as a single facility for purposes of R.C. 4928.64(A)(1) after January 1, 1998, satisfying the requirements of R.C. 4928.64(A)(1).

Further, to attempt to separate the facility by different mining sites based on when methane gas was first collected from each individual site would counter the purpose of

the renewable energy resources laws, which is to encourage the development and use of such resources. Ohio's Senate Bill 221 was developed in part to support economic development and energy security by implementing programs focusing on energy production and efficiency, as well as by creating benchmarks to mandate and encourage the utilization of environmentally friendly renewable resources. CGT's facility supports economic development and helps collect methane gas that, if not extracted and captured, would inevitably seep into the atmosphere. The facility is more environmentally responsible and is also furthering federal goals of reducing methane emissions even before a final rule is developed by the U.S. Environmental Protection Agency ("EPA").

C. The risk of potential double-counting of RECs by CGT and UC is negligible

Staff also indicated it believes that if the CGT facility is certified, it may result in the double-counting of the RECs by CGT and UC. The Staff's concern is unwarranted for one simple reason: UC does not use CGT's RECs anymore because the agreement between the two entities terminated with CGT's final delivery of RECS to UC in January 2014. If certification is granted, CGT will be the only entity obtaining RECs from methane gas extracted from this facility.

D. Failure to certify CGT's facility will result in the facility being shut down

As explained above, the alternative energy portfolio standard was developed to support economic development, environmental protection, and energy security in Ohio. Additionally, it was created to account for environmental concerns that are always within consideration when dealing with energy issues. A failure to certify CGT's facility will

force CGT to cease its collection of methane gas from these abandoned coal mines, due to a lack of economic feasibility, which will have severe consequences.

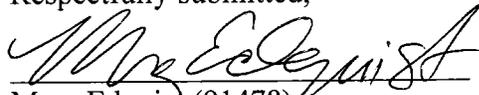
The shutdown of the CGT facility will likely have a negative environmental impact. The EPA has recognized that even when properly sealed, diffuse emissions can occur when methane migrates to the surface through cracks and fissures in the strata overlying the coal mine through various natural cracks and fissures.¹ CGT's facility extracts and captures a greenhouse gas, converting it into a local source of valuable, clean burning energy. Failure to certify the facility, resulting in its closure, will have the dual effect of not only harming the environment but also wasting a potential energy resource.

III. CONCLUSION

Based on the foregoing, the CGT facility should be certified as an Ohio renewable energy resource generating facility. The failure to include a conversion rate specifically for abandoned coal mine is irrelevant and does not reflect the true intent of R.C. 4928.645(B)(1); the modifications made to CGT's facility after January 1, 1998 combined all methane gas emitting coal mines into one facility and, thus, the placed in-service date is after the statutory time; there will not be a double-counting of RECs because UC may no longer use CGT's RECs; and the failure to certify CGT's facility will result in its immediate shutdown, causing economic, environmental, and energy development harm.

¹ See, U.S. Environmental Protection Agency, Methane Emissions from Abandoned Coal Mines in the United States: Emission Inventory Methodology 1990-2002 (2004), available at http://www.epa.gov/methane/cmop/docs/amm_final_report.pdf; see also, Intergovernmental Panel on Climate Change, 2006 IPCC Guidelines for National Greenhouse Gas Inventories, Section 4.7, available at http://www.ipcc-nggip.iges.or.jp/public/2006gl/pdf/2_Volume2/V2_4_Ch4_Fugitive_Emissions.pdf

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Summary: Memorandum In Response to the Staff Report of the Public Utilities Commission of Ohio electronically filed by Mr. Daniel Sullivan on behalf of Coal Gas Transportation, LLC