

**NEW YORK PUBLIC INTEREST RESEARCH GROUP
ENVIRONMENTAL ADVOCATES OF NEW YORK
CITIZENS CAMPAIGN FOR THE ENVIRONMENT
NATURAL RESOURCES DEFENSE COUNCIL
SIERRA CLUB ATLANTIC CHAPTER**

June 18, 2012

Hon. Jaclyn A. Brillling
Secretary to the Commission
New York State Public Service Commission
Agency Building 3
Albany, NY 12223-1350

Re: Case No. 12-E-0149 / 03-E-0188 Verified Petition of Niagara Generation, LLC for
Rulemaking to Allow for Up to Ten Percent Glued Wood Within Clean MRF Fuel to be Eligible
for Use as Biomass Fuel in the Renewable Portfolio Program

Dear Secretary Brillling,

We are writing in opposition to the petition submitted by Niagara Generation LLC to allow for up to 10% glued wood within “clean MRF fuel” to be eligible for use as biomass fuel in the RPS.

The NiGen facility in Niagara Falls, New York burns coal, petroleum coke, tires, and construction and demolition debris (CDD). In 2010, the Public Service Commission approved a petition from NiGen allowing the use of CDD from C&D processing facilities to be used as a source of biomass fuel. Subsequently, in 2011, NYSERDA issued guidance stating that “clean MRF fuel” “shall mean clean biomass separated from the mixed waste stream or C&D debris at a permitted MRF or C&D processing facility.”

It is our understanding that, according to comments filed by Barbara Warren on behalf of the Citizens’ Environmental Coalition, there have been no stack tests performed at this facility since it was permitted to include biomass in its fuel mix. Consequently the applicant has provided no documentation that the so-called “clean” MRF fuel that it is utilizing is indeed clean, unadulterated wood waste. According to the petition, the sorting process for wood waste used at MRF or C&D processing facilities is based on “visual identification.” Visual identification alone would not be able to assure detection of treated wood, especially if it has aged and weathered. This is significant because wood preservatives include a wide variety of extremely toxic chemicals and heavy metals, including pentachlorophenol, creosote, arsenic, chromium, lead, and other compounds. This is not “clean” biomass – this is highly contaminated waste.

We believe it is premature for NiGen to bring forth this petition to utilize glued wood as an RPS-eligible feedstock when there has not been a thorough analysis of the impacts on the facility’s

emissions, ash residue, and wastewater as a result of the recent inclusion of potentially adulterated biomass. On that basis alone, the PSC should reject this petition.

However, should the PSC decide it has sufficient information to proceed with its review, we would urge Commissioners to reject NiGen's petition based on the following concerns:

- 1) Solid waste is not a "renewable" source of energy. The State's solid waste policy puts reduction, reuse and recycling at the top of its solid waste hierarchy. The State's policy goal is to reduce waste, not keep generating it.
- 2) Contaminated wood waste is a dirty fuel source and its combustion should not be subsidized with public clean energy funds. Glued wood such as plywood, particle board, and fiber board contain a variety of binders, resins, or glues, including formaldehyde, which has been classified as a known human carcinogen by the International Agency for Research on Cancer and a probable human carcinogen by the U.S. Environmental Protection Agency. Combustion of particleboard and plywood can result in emissions of very hazardous air pollutants including polycyclic aromatic hydrocarbons (PAHs), toluene, formaldehyde, benzene, naphthalene, acenaphthylene and anthracene.¹
- 3) Burning glued wood at the NiGen facility will add more air pollution, not subtract it. The purpose of the RPS is to replace dirty fossil fuels with cleaner alternatives. NiGen proposes to increase capacity at its Niagara Falls facility through burning this waste, not to offset other fuels.
- 4) The NiGen facility is an extremely dirty power source. This facility burns coal, pet coke, tires, and C&D waste. The state's limited resources for renewable energy should not be directed to facilities that burn such dirty feedstock.
- 5) The public does not generally think of burning tires, coal, and C&D debris as "renewable energy." This is important because the RPS is funded by ratepayers, and should the public lose confidence in how these funds are used, it could jeopardize clean energy funding in the future. In its original 2004 order, the PSC recognized this concern, stating "the credibility of the RPS hinges in large part on public acceptance that this program will deliver environmental benefits"
- 6) Contrary to the petitioner's statement that "glued wood is otherwise unrecyclable material that would be deposited in landfills," there are better alternatives for managing glued wood than burying or burning it. Seattle, Washington includes glued wood in its recycling program, for instance. Much of the C&D debris generated each year is reusable or recyclable, including glued wood, according to the Institute for Local Self-Reliance.² Reuse and recycling of C&D materials reduces greenhouse gas emissions, reduces reliance on incinerators and landfills, and creates local jobs in sorting, processing, and remanufacturing materials.

¹ Hoerning, J. et al. 1995. Organic Emissions From Combustion of Plywood And Particleboard. Argonne National Laboratory Symposium on Direct Coal Liquefaction. 1995, Chicago. Available at http://web.anl.gov/PCS/acsfuel/preprint%20archive/Files/40_3_CHICAGO_08-95_0676.pdf.

² See <http://www.ilsr.org/initiatives/deconstruction-waste-to-wealth/>.

It should come as no surprise that NiGen is seeking a “more economical supply base” by looking to contaminated wood materials to augment its fuel supply. There is a strong market for clean wood waste because this material is in demand for much higher end uses, such as mulch, a factor which should have been taken into consideration when the PSC approved NiGen’s initial petition. Given market factors, it was perhaps inevitable that NiGen would eventually turn to cheaper, dirtier wood wastes to burn.

While NiGen’s Niagara Falls facility is already permitted to burn a significant percentage of adulterated wood waste, the question for the PSC is whether this activity should be subsidized by the public as a clean renewable energy source. We contend that the answer to this question is “No.” Approval of this request would open the door to a steady stream of contaminated materials becoming eligible for the RPS, setting a bad precedent for New York and elsewhere and taking resources away from clean renewable energy technologies. We further note that one of the groups signing on to this letter, the Natural Resources Defense Council, supported NiGen’s initial petition strictly under the condition that they only use unadulterated C&D wood waste.

We would like to request a meeting with DPS staff to discuss our general concerns about the treatment of biomass in the RPS and about the “Biomass Power Guide” that was released last fall. In the meantime, our groups urge the PSC to deny NiGen’s petition.

Thank you for your consideration.

Sincerely,

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