

August 16, 2011

Kari Bennett, Commissioner

Indiana Utility Regulatory Commission
101 West Washington St., Suite 1500
East Indianapolis, IN 46204

Re: IURC RM #11-05 (Indiana Voluntary Clean Energy Portfolio Standards Program)

Dear Commissioner Bennett:

Waste Management of Indiana, LLC (hereinafter "Waste Management") would like to bring the following comments to the attention of the Indiana Utility Regulatory Commission in response to the request for comments solicited by the Commission in developing its regulations supporting Indiana's Voluntary Clean Energy Portfolio Standards Program.

The Senate Committee on Energy and Environmental Affairs incorporated an amendment, among others, to SB 66 that added "Methane recovered from landfills for the production of electricity" to the list of "renewable energy resources" set forth in IC 8-1-8.8-10. Senate Bill 66, with the incorporated amendment, passed both houses and was signed into law by the Governor as Public Law 96. At the same time, in Senate Bill 251 (signed into law by the Governor as Public Law 150), the legislature enacted a Voluntary Clean Energy Portfolio Standard Program designed to encourage utilities to use "clean" energy alternatives in providing electricity to customers. Senate Bill 251 listed several "clean energy resources" in a new code section (IC 8-1-37-4) which explicitly recognized alternative technologies or programs used in connection with the production or conservation of electricity. "Methane recovered from landfills for the production of electricity" was not included in the list of explicitly recognized alternative technologies or programs set forth in IC 8-1-37-4. However, late in the legislative session, an attempt was made to incorporate "methane recovered from landfills for the production of electricity" into the list of explicitly recognized "clean energy resources" through an amendment to HB 1128 (signed into law as Public Law 224). This attempt, though well intended, did not accomplish its goal.

Waste Management submits that IC 8-1-37 contains two (2) provisions that would allow the Commission, through regulatory interpretation, to recognize "methane recovered from landfills for the production of electricity" as a "clean energy resource" for the purpose of the Voluntary Clean Energy Portfolio Standards Program. Those provisions are as follows:

IC 8-1-37-4(a)(9) recognizes "Energy from waste to energy facilities, including energy derived from solid waste conversion technologies";

IC 8-1-37-4(a)(15) recognizes "A source, technology, or program approved by the commission and designated as a clean energy resource by a rule adopted by the commission under 4-22-2.

Waste Management operates six (6) active solid waste disposal facilities in Indiana. Each facility is equipped with state of the art technology that allows the capture of methane from the anaerobic decomposition of solid waste and its conversion into electricity. In addition, Waste Management maintains two (2) closed solid waste disposal facilities with each producing electricity from captured methane for the foreseeable future.

Waste Management would also ask the Commission to recognize the definition of "co-firing" as the Commission develops its Voluntary Clean Energy Portfolio Standards Program. "Co-firing" means simultaneously using fossil fuels together with renewable fuels in the generation of electricity. In other states where the definition of "co-firing" has been recognized for Alternative or Clean Energy Portfolio Standards, only the proportion of the total electric output of the renewable energy system that can be attributed to the use of renewable energy qualifies as electricity generated from renewable energy. As a further refinement of attribution of fossil fuel versus renewable fuel in determining the proportion of energy that qualifies for the Clean Energy Portfolio Standard Program, Waste Management submits the following language for the Commission's consideration: ***"if a renewable energy system uses fossil fuel as an energy source to generate electricity and that fossil fuel constitutes more than 2 percent of the total input as measured in British thermal units on an annual basis, excluding fossil fuel used for start-up or shutdown, only the proportion of the total electric output of the renewable energy system that can be attributed to the use of renewable energy qualifies as electricity generated from renewable energy."***

Waste Management respectfully requests the Commission approve "methane recovered from landfills for the production of electricity" as a "clean energy resource". In addition, Waste Management would request the Commission recognize the definition of "co-firing" for the purpose of the program. Waste Management appreciates the opportunity to submit these comments and looks forward to continuing to work with the Commission in developing Indiana's Voluntary Clean Energy Portfolio Standards Program.

Respectfully Submitted:



Mark Palmer
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CC: Lisa Disbrow
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Waste Management of Indiana, LLC