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August 11, 2010

Phil Giudice
Commissioner
Department of Energy Resources
100 Cambridge Street, Suite 1020
Boston, MA 02114

Subject: Comments on DOER Biomass RPS Rulemaking Process

Dear Commissioner Giudice:

The Biomass Power Association ("BPA") respectfully submits this letter in response to your Department's invitation for comments on proposed changes to the Commonwealth's Renewable Portfolio Standard as a result of a letter sent to you by Secretary of Energy and Environmental Affairs, Ian Bowles, dated July 7, 2010 (the "Bowles Letter"). In considering these changes, the Commonwealth has completely disregarded basic notions of fairness and due process by relying upon a study that was neither peer-reviewed nor, by its own admission, at all applicable to our industry. Moreover, the Bowles letter seeks dramatic and unachievable standards that fundamentally change the rules of the game and place at risk millions of dollars of investment and thousands of jobs.

BPA is the nation's leading voice for biomass to electricity facilities. Our members use what is called "open-loop biomass"—pre-commercial thinning, slash, and organic residue and byproducts from forestry and agricultural sources—to produce grid-connected, renewable, baseload, carbon neutral power. We are not in the business of harvesting forests for the purpose of producing energy—a cornerstone assumption of the Manomet Study as discussed further below.

Previously, we shared our concerns with your Department about the procedural infirmities of Secretary Bowles predetermining the substantive regulatory outcome and directing, in the absence of public comment and peer review, your Department to adopt rules in regulatory "midstream." To issue the Manomet Study, then invite the public to comment, and then issue a regulatory directive two days before the supposed deadline – while ignoring the public or peers in the scientific community that may have a different view—is breathtakingly unfair and runs afoul of any sort of basic notions of regulatory fair play. Given this unfortunate process, it is little wonder that the end result is flawed and could cause

significant harm, both economically and ecologically, to the forests of New England, which rely upon low-grade wood markets such as biomass power to maintain healthy carbon stocks and sound forest stewardship, and the renewable power industry.

Other interested parties will surely comment on the specific recommendations around efficiency, sustainability, and biomass definitions. For the record, BPA and its members embrace sustainability, and we encourage the Commonwealth to consider various recommendations, such as proposed by the Forest Guild, to guide you in considering appropriate standards. We also believe that new facilities in New England should strive for greater efficiency where economically and technologically feasible, and should be rewarded through an RPS when achieving such standards.

That said, we are deeply concerned that the 60% minimum standard can ever be achieved and wonder why efficiency is being mandated for biomass that is not derived from harvesting forests for energy, which is Manomet's focus. In addition, we fundamentally oppose rule changes, such as an efficiency criteria, for existing biomass plants, which have no cost effective manner by which to change "efficiency." If DOER again changes the rules, it will "chill" further investment not just for biomass, but any renewable technology, as investors will conclude that the energy market in Massachusetts is not reliable, and can change based on the whim of elected officials. For example, what if DOER were, post the construction of Cape Wind, to change siting criteria that would require relocation of each turbine as a requirement for RPS qualification? How about approving solar panels, and then mandating, *after they are installed*, that all photovoltaic modules be made of non-toxic chemicals? That is no way to build confidence in the private sector nor grow a green jobs economy.

Fundamentally, all of Secretary Bowles' regulatory directives are misplaced and inappropriate for a simple reason: the Manomet Study has absolutely nothing to do with the way biomass energy is produced, or likely to be produced, anywhere in New England. Quite simply, Secretary Bowles took the results of the study to suggest sweeping changes in the RPS without listening to the very authors of Manomet who, immediately after issuing the report, made clear that it was not a study of non-forest harvested biomass. Consider the following comments—

"...the study addresses only the carbon cycle implications of biomass harvested from actively managed, natural forests. The study did not analyze woody biomass from other sources, for example tree plantations, land clearing, tree work and landscaping wastes, or constructions wastes. These materials can be important potential sources of biomass—ones that likely have very different carbon cycle implications than biomass from natural forests—and merit careful and separate consideration in biomass power development." *Statement from Manomet on the Biomass Study dated June 21, 2010.*

Similar statements were made by other authors of the study, including the Pinchot Institute for Conservation, which stated [the study] does "not reflect that electric power generation from forest residuals and waste wood results in minimal **if any** net carbon emissions" in a press release dated June 10, 2010. Biomass Energy Resource Center ("BERC") also chimed in, commenting, "The study also only

looked at green woody biomass from forests. It did not look at 'other biomass' as suggested by AP, much of which may add no new carbon to the equation (example: forest residues or other wood that would decompose quickly anyway)." Both Pinchot and BERCC confirmed what Manomet itself made clear—that for wood by-products and residue, the carbon dividends occur quite rapidly.

In other words, the very authors of the study that the Commonwealth is now relying upon to regulate all biomass make clear that their results are not relevant for all biomass. This "one size fits all" approach is disturbing and entirely arbitrary.

The Commonwealth can take credit for pioneering the public policy debate about biomass energy and carbon. In the end, however, it's almost entirely academic and here's why: Does the Commonwealth honestly believe that, as reported in the media, "biomass is worse than coal"? Does the Commonwealth believe that renewable energy standards can ever be met in New England with just wind or solar? Plain and simple, this debate is about harvesting forests for energy, which has never been economic in New England and has no bearing on how RECs are being generated today.

When an article appeared in Science in July of 2009 entitled "Beneficial Biofuels—The Food, Energy, and Environment Trilemma," the authors highlighted the need for rigorous "accounting rules" to account for indirect land use changes and other consequences of biomass—according to the authors of the article, this is called "biomass done wrong." Interestingly, "biomass done right" includes "**sustainably harvested wood and forest residues.**" The Science article triggered a robust debate among academicians, policy wonks, and the media about how to model carbon emissions. Throughout this entire, painful "debate," no credible source, including Manomet, has ever suggested that biomass electricity as produced in New England today is anything other than "biomass done right." For that reason, we respectfully request that the Commonwealth follow the science and resist the temptation to tinker with your regulations in a way that could do significant harm and erase years of progress in growing the region's renewable energy economy.

I would be pleased to discuss my comments with you further. I can be reached at bob@biomasspowerassociation.com or (207) 228-7376. Thank you for your attention to this important matter.

Sincerely,

A handwritten signature in blue ink that reads "Robert E. Cleaves" followed by a stylized flourish or initials.

Robert E. Cleaves

President

Biomass Power Association