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**July 30, 2010**

**VIA FIRST CLASS AND ELECTRONIC MAIL**

Mr. Ian Bowles, Secretary  
Executive Office of Energy and Environmental Affairs  
100 Cambridge Street, Suite 900  
Boston, MA 02114

Dear Secretary Bowles:

I am writing on behalf of the New England Power Generators Association (“NEPGA”), regarding your letter dated July 7, 2010 (the “EEOEA Letter”) to Commissioner Philip Giudice, Department of Energy Resources (“DOER”), with respect to the recent release of the Biomass Sustainability and Carbon Policy Study by the Manomet Center for Conservation Sciences (“Manomet Study”). NEPGA’s primary interest in this matter is that DOER undertake an open and ongoing public process in advance of any changes in regulatory policy with respect to the eligibility of biomass as an eligible fuel.

NEPGA understands that a review of the policy relating to the RPS program status of biomass as an eligible fuel may be appropriate at this time. We look forward to the process that DOER has established over the next several months to solicit public input and engage in formal rulemaking to revise RPS regulations governing biomass eligibility. We fully appreciate DOER’s efforts to allow for public comment on the Manomet Study and its ongoing efforts to develop new regulations for biomass.

In the EEOEA Letter, however, DOER is directed to “align regulations” based upon the “implications” raised in the Manomet Study. Specifically, among other things, DOER is instructed to include as “changes in policy” regulations that will require efficiency standards, set emission criteria, establish sustainable forest management practices, and impose limitations on use of residual woods as a biomass fuel. Notably, in remarks on July 27 at the first public hearing addressing the findings of the Manomet Study, Commissioner Giudice indicated that DOER would develop “a regulatory framework” to include the specific “parameters” as set forth in the EEOEA Letter.

NEPGA is concerned that the EEOEA Letter will undermine the public policy process by mandating specific regulatory action by DOER in advance of public comments and an open public review process. We worry that certain specific regulatory requirements will

be imposed in the regulatory process, irrespective of the merits of comments offered by experts and other public participants in the regulatory/rulemaking process.

NEPGA urges EEOEA to maintain an open public policy-making process and not mandate specific regulatory actions by DOER in advance of public comments and a review process.

We believe that the rule making process should be fully transparent, open and fair. The provisions of the Massachusetts Administrative Procedure Act, M.G.L. c. 30 A, *et. seq.* (“the Act”) requires DOER to fully consider and evaluate the views and opinions of interested parties in a meaningful process. This consideration is undermined by the implicit adoption of parameters in advance of the rule making process. In effect, the regulations are already promulgated and there is no meaningful opportunity to present data, views and arguments as required by the Act.

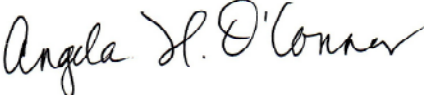
In this regard, it would be more appropriate for DOER to solicit public input on specific questions of interest that may include, for example, the parameters suggested in your letter. Indeed, among other things, stakeholders should be encouraged to comment on the parameters mentioned in the EEOEA Letter, *e.g.*, efficiency, emissions criteria, and sustainability practices as well as other assumptions contained in the Manomet Study, and whether the study should be peer reviewed. This approach would appropriately focus attention on issues of concern and develop a record as part of an open process. In contrast, the regulatory framework set forth in the EEOEA Letter suggests a pre-ordained outcome and creates a perception of unfairness and arbitrariness.

In short, there appears to be an implicit directive to DOER to establish parameters that substantively change long standing regulatory policy in advance of a Massachusetts Administrative Procedure Act, c. 30 A rulemaking process. We urge you to reconsider the impact of the EEOEA Letter on the ongoing regulatory process and to clarify that DOER’s mandate is to fully consider the merits of all views and opinions impartially, and without predisposition in a meaningful process.

NEPGA’s goal is to promote fair and transparent competition in energy markets and to advocate that energy regulatory policies evolve in a fair and open process as required by c. 30A. We share your perspective that regulatory policy may (and should) change over time. We have a common interest in preserving the integrity of the process by which those changes are made.

We look forward to continuing to work with EEOEA and DOER in this matter and appreciate your consideration of our comments.

Sincerely,

A handwritten signature in black ink that reads "Angela M. O'Connor". The signature is written in a cursive style with a large initial 'A' and 'O'.

Angela M. O'Connor  
President

Cc: Phillip Giudice, Commissioner  
Department of Energy Resources