

130 FERC ¶ 61,268
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

March 31, 2010

In Reply Refer To:
WM Renewable Energy, L.L.C.
Docket Nos. EL10-32-000
QF08-622-002

Freddi L. Greenberg
1603 Orrington Ave., Suite 1050
Evanston, IL 60201

Attention: Freddi L. Greenberg,
Attorney for WM Renewable Energy, L.L.C.

Dear Ms. Greenberg:

1. On December 31, 2009, you submitted on behalf of WM Renewable Energy, LLC (Petitioner), a petition for a declaratory order requesting a limited waiver of the filing requirements for small power production qualifying facilities (QF) under section 292.203(a)(3) of the Commission's regulations for the period extending from September 24, 2007 until June 30, 2008.¹
2. Petitioner owns and operates the Fitchburg facility located in Worcester County, Massachusetts, which was placed in service on September 24, 2007. The Fitchburg facility has a net capacity of 3 MW, which is fueled by landfill gas. Since commencement of operations, the energy generated by the facility was sold to a power marketer together with the renewable energy certificates associated with the energy. On

¹ Section 292.303(a) of the Commission's regulations (18 C.F.R. 292.203(a)(3) (2009)) requires a small power production qualifying facility to file a notice of self-certification with the Commission pursuant to section 292.207(a) of the Commission's regulations.

June 30, 2008, the Petitioner filed a notice of self-certification of QF status for the Fitchburg facility after learning that it had failed to file the notice before it began operations.²

3. Notice of the petition for a declaratory order was published in the *Federal Register*, 75 Fed. Reg. 1362 (2010), with interventions and protests due on or before February 1, 2010. None was filed.

4. With the exception of the filing requirement, Petitioner states that the Fitchburg facility has satisfied all of the requirements for QF status under the Public Utility Regulatory Policies Act of 1978, as amended (PURPA), and further has been in substantive compliance with the QF requirements from the date it first produced electricity. Petitioner also contends that the Fitchburg facility has been in full compliance with the Commission's QF regulations since June 30, 2008, when the notice of self-certification was filed. Petitioner states that by granting the requested waiver, the Commission will be supporting the development of renewable energy, and moreover, that the request is consistent with *Ashland Windfarm, LLC*.³ In addition, Petitioner states that the purchaser of the electric output of the facility has informed the Petitioner that it does not oppose the request for waiver.

5. The Commission has the discretion to waive a regulatory requirement, where appropriate,⁴ and will do so under the circumstances presented here. The Commission grants the Petitioner's request for waiver of the filing requirement in 18 C.F.R. § 292.203(a)(3) (2009).

By direction of the Commission.

Nathaniel J. Davis, Sr.,
Deputy Secretary.

² WM Renewable Energy, LLC filed the notice of self-certification in Docket No. QF08-622-000, and subsequently, a notice of self-recertification in Docket No. QF08-622-001 on November 20, 2008.

³ *Ashland Windfarm, LLC*, 124 FERC ¶ 61,068 (2008) (granting waiver of the filing requirement under section 292.203(a)(3) of the Commission's regulations with respect to small power production facilities which began operations between 2002 and 2004).

⁴ *Id.*