

**BEFORE THE TENNESSEE REGULATORY AUTHORITY**

**NASHVILLE, TENNESSEE**

**December 15, 2010**

**IN RE:**

**PETITION OF RENEWCO-MEADOW BRANCH, LLC  
FOR A CCN TO CONSTRUCT AND OPERATE A  
RENEWABLE LANDFILL METHANE GAS PIPELINE  
IN MCMINN COUNTY, TENNESSEE**

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**DOCKET NO.  
10-00179**

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**ORDER GRANTING CERTIFICATE OF  
PUBLIC CONVENIENCE AND NECESSITY**

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This matter came before Chairman Mary W. Freeman, Director Kenneth C. Hill and Director Sara Kyle of the Tennessee Regulatory Authority (the "Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on October 25, 2010 for consideration of the *Application of Renewco-Meadow Branch, LLC for a Certificate of Public Convenience and Necessity* ("Application") filed on September 3, 2010.

**THE APPLICATION**

On September 3, 2010, Renewco-Meadow Branch, LLC ("Renewco-MB" or "Company") filed its application for a Certificate of Public Convenience and Necessity ("CCN") to construct and operate a renewable landfill methane gas pipeline, located in McMinn County, TN. AGL Renewables, LLC ("AGLR") is a wholly-owned subsidiary of AGL Resources Inc. ("AGL"). AGLR is the sole member of Renewco-MB. AGLR and Keystone Renewable Energy, LLC ("Keystone") have formed Renewco, LLC ("Renewco") as a joint venture. Keystone's relationship with Renewco-MB involves the provision of professional services in connection with the Meadow Branch Landfill project. Renewco was formed to develop, finance, build and operate plants to convert landfill methane gas ("LFG") to high-BTU renewable gas.

The *Application* states that after obtaining Authority approval, Renewco-MB plans to construct and operate a single purpose, point-to-point pipeline to transport renewable LFG across approximately 9.5 miles from the Meadow Branch landfill (“MB landfill”), located in Athens, Tennessee, to an interconnect on the East Tennessee Natural Gas transmission line, located at a point north of the City of Athens Utility Board Riceboro gate. The proposed pipeline will be constructed entirely within McMinn County, with approximately one mile located inside the City of Athens. The MB landfill is owned by Waste Connections Inc. d/b/a Environmental Trust Company. Renewco-MB holds an LFG purchase contract with Waste Connections.

The *Application* indicates that the LFG plant will produce gas that meets the quality specifications required by the East Tennessee pipeline. Renewco-MB asserts in its *Application* that there is a public need to transport renewable landfill methane gas from the MB landfill to consumers.

#### **LEGAL STANDARD FOR GRANTING CCN**

Tenn. Code Ann. § 65-4-201 (2004) requires that a public utility, and any person or corporation constituting a public utility as defined by law, obtain a CCN from the Authority prior to the establishment, construction, or operation of “any line, plant, system, or route.”<sup>1</sup> Before granting an application, the Authority must find that the record contains sufficient evidence that the applicant possesses the resources and capabilities to construct, operate, and maintain the proposed public utility system and that grant of such authority is consistent with the public interest, convenience and necessity.

In addition, applications for authority that are related to the transportation of landfill methane by pipeline are further scrutinized by the Authority in accordance with the *Landfill Methane Development Act*, Tenn. Code Ann. § 65-28-201 *et. seq.* This act addresses the use of landfill methane gas as an alternative fuel for natural gas, and places the rates and charges,

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<sup>1</sup> Tenn. Code Ann. § 65-4-201 (Supp. 2009).

construction, and operation of facilities for the transportation of landfill methane gas by pipeline under the jurisdiction of the Authority.<sup>2</sup> Notwithstanding such delegation of jurisdiction, the construction and operation of a facility intended merely for “gathering, extracting, purifying, dehydrating, or otherwise treating” landfill methane, and the rates, charges, or sales price negotiated with the supplier of any methane gas produced or treated thereby, are exempted from regulation by the TRA or any other state agency.<sup>3</sup>

Accordingly, the TRA’s exercise of jurisdiction over Renewco-MB is appropriate to monitor and oversee the Company’s compliance with the requirements of applicable state law, including the Pipeline Safety Act of 1968 and TRA Rules.<sup>4</sup> Thus, in this docket, the Authority’s charge is to determine whether the record sufficiently demonstrates that Renewco-MB’s CCN application, which requests authority to construct and operate a pipeline for the transport of methane gas, satisfactorily meets the requirements of law, is consistent with the public interest, and should therefore be approved.<sup>5</sup>

#### **THE OCTOBER 25, 2010 HEARING**

Pursuant to Tenn. Code Ann. § 65-4-201 (2004), public notice of the Hearing in this matter was issued by the Hearing Officer on October 11, 2010. No persons sought intervention prior to or during the Hearing. During the Hearing held on October 25, 2010, Mr. Ira Pearl, CEO, participated in the Hearing, affirmed his pre-filed testimony and was subject to examination by the panel. Mr. Chuck Welch, Esq., represented the Company.

#### **I. Renewco-MB’s Qualifications**

1. Renewco-MB is incorporated under the laws of the State of Delaware and licensed to transact business in Tennessee by the Secretary of State as of June 1, 2010.

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<sup>2</sup> Tenn. Code Ann. § 65-28-205 (Supp. 2010).

<sup>3</sup> Tenn. Code Ann. § 65-28-204 (Supp. 2010).

<sup>4</sup> Tenn. Code Ann. § 65-28-104(3) and (6) and § 65-28-106.

<sup>5</sup> On October 6, 2010, Renewco-MB filed a petition requesting a special permit to install glass reinforced epoxy thermostat pipe in the construction of its pipeline. The Authority will consider the Company’s request for a special waiver during a future Authority Conference. *See In re: Application of Renewco-Meadow Branch, LLC for a Special Permit to Install Glass Reinforced Epoxy (GRE) Thermostat Pipe*, Docket No. 10-00195.

2. Renewco-MB's registered agent is Corporation Service Company. The registered agent's address is 2908 Poston Avenue, Nashville, Tennessee 37203.

3. The *Application* and supporting information existing in the record indicate that Renewco-MB has the requisite technical and managerial ability to construct and operate a landfill gas pipeline within the State of Tennessee. Specifically, Renewco-MB's senior management team possesses sufficient business, technical and operational experience.

4. Renewco-MB has demonstrated the capital and financial ability necessary to construct and operate a landfill methane gas pipeline.

5. Renewco-MB has represented that it will adhere to all applicable statutes, policies, rules and orders of the Authority.

## **II. Public Interest**

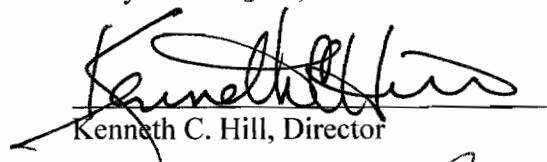
Upon a review of the *Application* and the record in this matter, the panel found that approval of Renewco-MB's *Application* would inure to the benefit of the present and future public convenience, as the proposed construction and operation of a landfill gas pipeline is consistent with the statutory goals of Tenn. Code Ann. § 65-28-201 *et. seq.*

### **IT IS THEREFORE ORDERED THAT:**

The *Application of Renewco-Meadow Branch, LLC for a Certificate of Public Convenience and Necessity* is approved.



Mary W. Freeman, Chairman



Kenneth C. Hill, Director



Sara Kyle, Director