

CC Landfill Energy, LLC

Date: 03/15/2011

Time: 3:30 pm

Present in Carson City:

Stacey Crowley, NSOE Director

Louis Ling, Deputy Attorney General

Lorayn Walser, NSOE Management Analyst II

Brent Keele, Mc Donald, Carano, and Wilson

Don Butler, Energenic, LLC

Present in Las Vegas: No one

Director Crowley: Good afternoon. I am Stacey Crowley, the Acting Nevada Energy Commissioner (of the Renewable Energy and Energy Efficiency Authority). This is a hearing on the merits of an application for partial abatement of sales and use taxes and property taxes filed by CC Landfill Energy, LLC on November 10, 2010 to which we have assigned Application Number 10-10007B. This application is for the construction and operation of a 10.6 MW biomass facility that will be located on approximately 1.4 acres of land leased from Republic Dumpco, Inc., the owner and operator of the Apex Regional Landfill, in Clark County, Nevada. I will be the presiding officer for the hearing this afternoon. With me is my legal counsel Louis Ling and the program coordinator Lorayn Walser.

Introductions:

Director Crowley: For the record, please introduce yourselves:

My name is Brent Keele, I work with McDonald, Carano, Wilson and I am here representing CC Landfill Energy.

My name is Don Butler, Vice President of Energenic LLC, here representing CC Landfill.

Director Crowley: As a preliminary matter we have marked a packet of documents as Exhibit One. This consists of several subparts:

As a preliminary matter, we have marked a packet of documents as Exhibit 1 in this matter. Exhibit 1 consists of several subparts:

Exhibit A - Notice of Public Hearing, dated March 7, 2011

Exhibit B - CC Landfill Energy LLC Pre-Application filed with the Nevada Energy Commissioner on 04/01/2010, and response letter from the Nevada Energy Commissioner, dated April 13, 2010

Exhibit C - CC Landfill Energy LLC Application (redacted) as filed with the Nevada State Office of

- Energy on November 4, 2010
- Exhibit D - Energy Related Tax Incentive Fiscal Note as required by NRS 701A.375-1(a) by the Budget Division of the State of Nevada Department of Administration, received on February 23, 2011
- Exhibit E - Fiscal Impact Renewable Energy Partial Abatement of Sales/Use and Property Taxes as required by NRS 701A. 375-1(b) by the State of Nevada Department of Taxation, received on January 20, 2011
- Exhibit F - Correspondence from Brent M. T. Keele, McDonald-Carano-Wilson dated October 25, 2010
- Exhibit G - Prefiled Testimony of Mr. Don Butler

Pursuant to stipulation with CC Landfill, I am admitting Exhibit 1 into evidence in this matter.

Director Crowley: Would CC Landfill like to make an opening statement?

Brent Keele: When we applied for this project it was a biomass/biogas facility in Clark County which satisfies the minimum size of 10 MW. We believe this project will definitely contribute to energy diversification in the state of Nevada as another source of renewable energy. It definitely is a benefit to our state and the fact that it is making use of a landfill for a very productive purpose.

Louis Ling administers the oath to Don Butler

Director Crowley: Is there any other evidence or information that you would like to provide?

Brent Keele: Yes, I just want to put on the record, the estimated costs were \$33,500,00 roughly, based on some of the bids that have come in, the cost may be closer to \$35,000,000.

Louis Ling: As you know when we do the findings we have to detail all of the benefits and abatements, should we use that 35 million dollar figure?

Brent Keele: Yes, that is the official cost of the project.

Director Crowley: For the purposes of the record, I will now state my findings and conclusions based upon the substantial, reliable, credible, and probative evidence presented to me in the exhibits and testimony presented this afternoon. As to each of the statutory requirements for this application, I make the following findings:

(1) As to NRS 701A.320 (1)(a) and (b), I find that the primary source of energy to operate the facility will be the facility itself and the facility will generate 10.6 MW nameplate, thus exceeding the 10 MW required by the statute.

(2) As to NRS 701A.360(2), I find that the facility is not owned, operated, leased, or controlled by a government agency, thus meeting the requirement of the statute.

(3) As to NRS 701A.365(1)(a)(1), I find that the facility is anticipated to be operational for at least 20 years since CC Landfill has a 20-year PPA with NV Energy, thus exceeding the 10 years required by the statute.

(4) As to NRS 701A.365(1)(b), I find that the facility has all the necessary state and local permits and licenses to operate, thus meeting the requirement of the statute.

[CCLE BUSINESS LICENSE EXPIRES MAR 31, 2011, DESIGN/BUILD COMPANY DCO ENERGY LLC EXPIRES APRIL 30, 2011. SPECIAL USE PERMIT BY CLARK COUNTY COMPREHENSIVE PLANNING DEPARTMENT AND AUTHORITY OF CONSTRUCT PERMIT BY CLARK COUNTY DEPT AIR QUALITY AND ENVIR. MGT ISSUED. STILL REQUIRES BUILDING PERMIT BY CLARK COUNTY BUILDING DEPT.]

(5) As to NRS 701A.365(1)(c), I find that no funding for facility is or will be provided by any governmental entity in this State for the acquisition, design or construction of the facility or for the acquisition of any land therefore, thus meeting the requirement of the statute.

(6) As to NRS 701A.365(1)(e)(1), the applicant has declared that the construction of the facility will employ 27 full-time employees during the second quarter of construction of which at least 9 will be Nevada residents. This does not meet the minimum requirement of 75 employees during the 2nd quarter of construction per NRS 701A.365 (d)(1). Pursuant to NRS 701A.365(3)(a), I have the ability to grant an exception if I find that this project is of the type contemplated by the Legislature to be entitled to receive the tax abatements, and that this project will benefit the State of Nevada. This discretion is authorized to me by NRS 701A.365 (3)(a).

Additionally, pursuant to NRS 701A.365 (3)(b) I may add additional requirements that a facility must meet to qualify for a partial abatement.

(7) As to NRS 701A.365 (1)(e)(2), I find that the capital investment in the facility is estimated to be \$32,316,800, thus exceeding the \$10,000,000.00 capital investment required by the statute.

(8) As to NRS 701A.365(1)(e)(3), I find that the average hourly wage paid to the 2 operational employees of the facility will be approximately \$41.42, which is more than 110% of the average hourly wage set by DETR (FY 2011 = \$21.92), thus exceeding the requirement of the statute.

(9) As to NRS 701A.365(1)(e)(4), I find that the average hourly wage paid to the 27 construction employees on the CC Landfill facility will be approximately \$37.70, which is more than 150% of the average hourly wage set by DETR (FY 2011 = \$29.90), thus exceeding the requirement of the statute.

(10) As to NRS 701A.365(1)(e)(5)(I) and (II), the statement made in the application states that the health insurance provided to the construction employees on the facility allows for the coverage of the dependents of the employees and will meet or exceed the standards established by the Commissioner, thus meeting the requirement of the statute.

(11) As to NRS 701A.365 (1)(f), I find that the benefits that will result to this State from the employment by the facility of the residents of this State and from capital investments by the CC Landfill

facility in this State exceeds the loss of tax revenue that will result from the abatement, thus meeting the requirement of the statute. In particular, I find that the substantial, reliable, credible, and probative evidence presented in this matter shows that the benefits to the state include the following amounts:

Benefits

Total Estimated Capital Investment: \$33,376,176

Total Property Taxes to Local Government Over Abatement Period: \$1,207,240

Total Taxes to Renewable Energy Fund Over Abatement Period: \$987,740

Total Sales & Use Taxes After Abatement: \$726,232.05

(of which \$533,573.46 is Local School Support)

Construction Payroll (37.70/hr. @ 20,000 hrs.): \$754,000

Operational Payroll (20 years @ \$172,300 per year): \$3,446,000

TOTAL BENEFITS OVER ABATEMENT PERIOD: \$40,497,388.05

Amounts Abated

Total Property Taxes Abated (20 Years): \$2,682,753

Total Sales and Use Taxes Abated (3 Years): \$1,141,221.79

TOTAL TAXES ABATED: \$3,823,974.79

(12) As to NRS 701A.370(1)(a)(3), I find that the abatement granted by this Order will not apply during any period in which the facility is receiving another abatement or exemption from property taxes imposed pursuant to chapter 361 of NRS, other than any partial abatement provided pursuant to NRS 361.4722.

(13) As to NRS 701A.370(1)(b)(1)(III), I find that the abatement granted by this Order will not apply during any period in which the CC Landfill facility is receiving another abatement or exemption from local sales and use taxes, thus meeting the requirement of the statute.

In order to meet the intent of the statute per NRS 701A.360, I will grant the exception of reduced number of employees (27) at the 2nd quarter of construction required by NRS 701A.365 (d)(1). The facility type and size is such that additional employees are not necessary and could be disruptive to the construction of the facility. Pursuant to NRS 701A.365 (3)(b), I will also require that the applicant ensure that the number of full-time equivalent (FTE) construction employees at the 2nd quarter of construction

be comprised of at least 50% residents of Nevada. With the addition of these two statements and based upon the previously mentioned findings, I conclude that CC Landfill's biomass facility that is the subject of Application Number 10-10007B satisfies or exceeds all of the applicable statutory requirements. Therefore, I grant CC Landfill Biomass facility, Application Number 10-10007B, partial abatements of sales and use taxes and property taxes pursuant to the authority granted me in NRS 701A.300 through 701A.390. Congratulations.

After today's hearing, I will produce a written Findings of Fact, Conclusions of Law, and Order based upon today's hearing. Once the Order is issued, I, representatives from the Nevada Department of Taxation, and appropriate representatives of your company will meet face-to-face to go over the terms and conditions of the Abatement Agreement and after that meeting, we will execute the Abatement Agreement. Do you have any questions?

Brent Keele: Just clarifying, is the abatement then approved at this point for purposes of sales and use tax or is it after that?

Director Crowley: We have to write the order, after that once the order is signed by me that will be the date.

Louis Ling: It is the date of the order and the agreement, we can have those ready by Thursday. According the statute, it starts when the agreement is signed.

Director Crowley: Is there anybody who would like to make a public comment at this time?

No public comment.

Director Crowley: The hearing is now concluded, thank you for your participation.