

**REDACTED**

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

March 16, 2018

RECOMMENDED DECISION

MAINE PUBLIC UTILITIES COMMISSION  
Procurement of Biomass Resources

Docket No. 2016-00084

MAINE PUBLIC UTILITIES COMMISSION  
Commission Initiated Reporting by Stored  
Solar, LLC Related to its Biomass Generated  
Energy Agreement

Docket No. 2017-00187

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**NOTE:**      **This Recommended Decision contains the recommendation of the Commission Staff. Although it is in the form of a draft Commission order, it does not constitute Commission action. Interested persons may file comments or exceptions to the Recommended Decision on or before March 23, 2018. The Commission will likely deliberate this matter on April 4, 2018.**

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## **I.      INTRODUCTION**

Through this Order and in accordance with its authority under an Act to Establish a Process for the Procurement of Biomass Resources (Act). P.L. 2016, Ch. 483 (the Act) and the terms of the Amended and Restated Biomass Generated Energy Agreement approved on August 16, 2017 and executed by Stored Solar on August 23, 2017 (the Agreement), the Commission concludes that Stored Solar, LLC (Stored Solar) has provided 79.20% of its required in-state benefits obligations. Accordingly, the Commission directs Central Maine Power Company (CMP) to reduce the contract payment that would otherwise be owed to Stored Solar by 20.80% pursuant to Section 5.2 of the Agreement.

## **II.     BACKGROUND**

A.      An Act to Establish a Process for the Procurement of Biomass Resources

The Legislature enacted the Act during its 2016 session, directing the Commission to initiate a competitive solicitation for one or more 2-year contracts for up to 80 megawatts of biomass resources.<sup>1</sup> The Act requires that all of the above-market costs associated with these contracts would be paid from a “Cost Recovery Fund” (the Fund) which was created to receive funds allocated or transferred by the Legislature from the unappropriated surplus of the General Fund in accordance with the Act. The Legislature subsequently transferred \$13.4 million out of the General Fund into the Fund.

The Act specifies that the Commission may direct utilities to enter into contracts for up to 80 MW and that a contract may be a contract for energy or a contract for differences. The Act further specifies that all contracts must be contingent on the availability of funds in the Fund and that contracts must be suspended if there are insufficient funds and may be reinstated if sufficient funds become available. In addition, the Act explicitly states that “[n]o more than 50% of the fund may be awarded to facilities serving the NMISA region.”<sup>2</sup>

The Act also requires that, during the solicitation and contract approval process, the Commission shall:

- A. Ensure that a biomass resource facility is operating at least at a 50% capacity for 60 days prior to the initiation of [the] competitive solicitation

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<sup>1</sup> The Act defines biomass resources as “a source of electrical generation fueled by wood, wood waste or landfill gas that produces energy that may be physically delivered to the ISO-NE region, as defined in the Maine Revised Statutes, Title 35-A, section 1902, subsection 3, or in the NMISA region.”

<sup>2</sup> The “NMISA region” is defined in the Act to mean “the area administered by the independent system administrator for northern Maine or any successor of the independent system administrator for northern Maine.”

. . . and continues to operate at that capacity except for planned and forced outages; and

B. Seek to ensure, to the maximum extent possible, that a contract entered into under this section:

- (1) Provides benefits to ratepayers;
- (2) Provides in-state benefits, such as capital investments to improve long-term viability of the facility, permanent direct jobs, payments to municipalities, payments for fuel harvested in the State, payment for in-state resource access, in-state purchases of goods and services and construction-related jobs and purchases;
- (3) Reduces greenhouse gas emissions;
- (4) Promotes fuel diversity; and
- (5) Supports or improves grid reliability.

In selecting among bids, the Act requires that the Commission identify those proposals that maximize the overall benefits to the State by determining the total in-state economic benefits of the contract in an expected annual dollar per megawatt-hour average and the cost to fund the above-market costs of a contract in an expected annual dollar per megawatt-hour average.

The Act also directs the Commission to establish a process under which a generator of biomass resources verifies on an annual basis that the projected in-state economic benefits have been provided. Finally, if the Commission finds the in-state benefits are not being achieved, the Commission may reduce the contract payment by the percentage difference between actual in-state benefits achieved and the projected in-state benefits. The only remedy permitted by the Act for failure to meet projected in-state benefits is a reduction in contract payments, as prescribed by the law.

B. Proposal Solicitation and Selection

In accordance with the Act, the Commission established a solicitation and contract approval process that included a June 17, 2016 Request for Proposals for the Sale of Energy from Biomass Resources (RFP); negotiations of contracts for each bid

that included the bidders, Commission Staff, CMP, and Emera Maine; and, ultimately, contract selection and approval by the Commission. By Orders dated December 19, 2016 (Part I Order) and January 25, 2017 (Part II Order), the Commission approved two contracts, one between ReEnergy Ashland LLC and ReEnergy Fort Fairfield LLC and Emera Maine and the other between Stored Solar and CMP. An amended contract between Stored Solar and CMP, titled Amended and Restated Biomass Generated Energy Agreement (the "Agreement") was subsequently approved by Commission Order on August 16, 2017.

To analyze the proposals, the Commission determined the total above market costs and in-state economic benefits for each. Part II Order at 8-12. The proposals were evaluated based on the overall benefits to Maine, as measured by the net of these two items. *Id.* at 11. Above market costs were measured by the difference between the estimated cost of the contract and the value that would be received for the energy in the wholesale market. *Id.* at 8-9. In-state benefits were measured by the value to the Maine economy that would be provided by items such as employment at the biomass facilities, biomass purchases, and capital investments to improve the viability of the facilities on a long-term basis. *Id.* at 9. To assist in the measurement of economic benefits, the Commission retained London Economics International (LEI). *Id.* LEI provided an initial report on August 31, 2016 that described its methodology for the analysis and, on November 3, 2016, LEI provided its final report in which the results of its analysis were presented. *Id.*

LEI used the IMPLAN model to estimate the impacts to the Maine economy of the in-state benefit-related items of each proposal. *Id.* As described by LEI in its initial

report, IMPLAN is a macroeconomic modeling tool that measures the effects of certain factors on output in related sectors of the economy. *Id.* Using IMPLAN, LEI estimated the direct, indirect and induced economic effects associated with the following features of each proposal: (1) permanent direct jobs; (2) payments to municipalities; (3) payments for fuel harvested in the State; (4) payments for in-state resource access; (5) in-state purchases of goods and services; and (6) in-state construction-related jobs and purchases. *Id.* at 9-10. This economic value was considered as the in-state benefit associated with each proposal and used in the Commission's evaluation of the proposals. *Id.* at 11.

In its analysis, LEI used the information provided by the bidders as inputs to the IMPLAN model for items such as the projected number of jobs at the facility, purchases of biomass from Maine, and capital spending. *Id.* at 10. IMPLAN then determined the economic output in terms of dollars per year associated with each proposal. *Id.* As explained in the Part II Order, this economic output was considered by the Commission to represent the in-state benefits that would be provided by each proposal. *Id.* at 11. As noted above, the net of the expected in-state benefits and the above market costs was the criteria by which the Commission evaluated the proposals. *Id.*

In the case of the Stored Solar proposal that was selected, the Commission determined that, over its two-year contract term, the proposal would be expected to provide \$135.9 million in Estimated Total In-State Benefits as compared to \$6.7 million in Estimated Above-Market Costs. *Id.* On a per MWh basis, the Commission estimated that the benefits would exceed the costs by \$258.32/MWh. *Id.*

C. Stored Solar Contract

The Agreement with Stored Solar covers its West Enfield and Jonesboro facilities (collectively, the Facilities) and has a two-year term beginning January 1, 2017 and ending December 31, 2018. Agreement at 3, 7. Under the Agreement, CMP pays Stored Solar \$13.40/MWh for up to 40 MWh of energy in any hour. *Id.* at 7. Stored Solar receives this payment in addition to the locational marginal price for energy (LMP) it receives in the ISO-NE wholesale market. Part II Order at 11. The Agreement requires Stored Solar to provide CMP with monthly reports detailing the quantity of energy produced under the Agreement during the previous calendar month. Agreement at 11. As described below, pursuant to the Agreement, Stored Solar receives no payment from CMP until after the Commission reviews the actual in-state benefits provided by Stored Solar in the prior contract year and determines whether any reduction of annual contract payments is required pursuant to Article 5 of the Agreement. *Id.* at 10.

The required in-state benefits that Stored Solar must provide are reflected in the Agreement. *Id.* at 11. For the first contract year (calendar 2017), Stored Solar must purchase 500,000 tons of in-state biomass, produce 42 full-time equivalent jobs, and make \$2.5 million in capital expenditures. *Id.* at Attachment B. For the second contract year, Stored Solar must purchase 500,000 tons of in-state biomass and produce 42 full-time equivalent jobs. *Id.* There is no specific requirement for additional capital expenditures in the second contract year. *Id.* Stored Solar must also verify that it is “in good standing with respect to its payment obligations to its employees, suppliers of in-state biomass, and suppliers and contractors providing equipment and services related

to capital expenditures (as the terms of those payment obligations may be agreed upon between Seller and its biomass and equipment suppliers and contractors).” *Id.*

In accordance with the Act, the Agreement includes provisions to adjust the contract payments each year in the event Stored Solar fails to provide all of the required in-state benefits. *Id.* at 12. Pursuant to Article 5 of the Agreement, if the actual in-state benefits provided are less than the required in-state benefits, the annual contract payment otherwise owed to Stored Solar must be reduced by the percentage difference between the actual and required in-state benefits. *Id.* For example, if the Commission determines that Stored Solar has provided 80% of its required in-state benefits, the payment that would otherwise be owed to Stored Solar would be reduced by 20%. *Id.*

The Agreement also provides that:

The determination of Actual In-State Benefits is made by the Commission, in its reasonable discretion, in accordance with the provisions of this Agreement, based on a reasonable weighting of the economic value provided by each category of In-State Benefits, and after providing [Stored Solar] a reasonable opportunity to respond to any preliminary determination of the value of any shortfall in the Actual In-State Benefits compared to Required In-State Benefits.

*Id.*

The Agreement also contains reporting requirements including the requirement for the annual in-state benefits report, which describes, documents, and quantifies the in-state benefits Stored Solar has provided during the contract year. *Id.* at 11.

In accordance with the Act, the Agreement also includes a covenant requiring the Stored Solar facilities to operate at 50 percent capacity or greater during each contract year. *Id.* at 8-9. This requirement is defined by the Agreement as the following calculation:

Energy Actually Generated by the Facilities during the Contract Year / (40 MW \* (8760 – Hours Attributable to Generator Planned Outages – Hours Attributable to

Generator Forced Outages – hours during which the Agreement is suspended pursuant to Section 4.1.3))  $\geq 0.5$

*Id.* at 8.

D. Contract Amendment and Quarterly Reports

On March 27, 2017, Stored Solar requested approval from the Commission to amend its original Biomass Generated Energy Purchase and Sale Agreement with CMP (the “Original Agreement”). Under the Original Agreement, CMP would provide monthly contract payments to Stored Solar. Original Agreement at 7. The payments would be adjusted at the end of the year if required in-state benefits were not provided. *Id.* at 11-12. Consequently, the Original Agreement would have required any adjustment to contract payments to be made retroactively. This contract therefore also included a requirement for Stored Solar to provide credit support in the event contract payments were to be adjusted. *Id.* at 12-14.

Stored Solar requested to amend the original agreement to forego the monthly contract payment and, thus, eliminate the required financial security and, instead, to receive contract payments on an annual basis, after the Commission has reviewed and, if necessary, determined the adjustment to the payments. The Commission granted Stored Solar’s request to amend its contract through an Order issued in Docket No. 2016-00084 on May 5, 2017. *Maine Public Utilities Commission, Procurement of Biomass Resources*, Docket No. 2016-00084, Order Approving Amendment to Biomass Contract (May 5, 2017). In approving the request, the Commission required the amended contract to “include the requirement for Stored Solar to provide periodic updates to the Commission regarding performance-to-date toward achieving the annual economic benefit metrics.” *Id.* at 7. Stored Solar, CMP, and Commission Staff

subsequently engaged in negotiations to amend the Original Agreement. In accordance with the Commission's directive, the amendments to the Original Agreement included a requirement for Stored Solar to provide quarterly reports detailing the in-state benefits provided to date (the "Quarterly Reports"). Agreement at 11. This Agreement was approved by Commission Order on August 16, 2017 and the Commission opened Docket No. 2017-00187 to receive the Quarterly Reports. *Maine Public Utilities Commission, Procurement of Biomass Resources*, Docket No. 2016-00084, Order Approving Amended Biomass Contract (Aug. 16, 2017).

E. First Annual In-State Benefits Report of Stored Solar

Pursuant to the Agreement, Stored Solar filed its annual in-state benefits report for the first contract year (the "Report") on January 30, 2018 in Docket No. 2017-00187. In this docket and Docket No. 2016-00084, the Presiding Officers issued a Procedural Order on February 1, 2018 that included dates for information requests on the Report, responses to those requests, a technical conference on February 28, 2018, and responses to oral data requests presented at that technical conference. After discussions with counsel for Stored Solar, the Presiding Officers established additional process that included a Commission Staff Recommended Decision and comments on and exceptions to the Recommended Decision.

In the Report, Stored Solar indicates that it provided 41.07 in-plant full-time equivalent jobs, purchased 522,507.81 tons of in-state biomass, and made \$2,503,967.58 in capital expenditures. Report at 4. Stored Solar also reported that its facilities at Jonesboro and West Enfield (collectively, the Facilities) operated at a capacity of 53.34% during the first contract year. Report at 3.

To support its in-state benefits, Stored Solar provided supporting documentation, including detailed tables and documents related to each benefit category. This material was supplemented by additional materials requested by the Commission Staff.

### III. ANALYSIS AND DECISIONS

#### A. Review of Stored Solar's Commitments Under the Agreement

The Commission's review of the Report is primarily for the purpose of assessing Stored Solar's performance against its required in-state benefits obligations and determining the extent to which a reduction in the annual contract payment may be warranted. However, this process also presents an opportunity to review Stored Solar's compliance with other material obligations to which it has agreed under the Agreement.<sup>3</sup>

In particular, the Agreement and the Act require that the West Enfield and Jonesboro facilities operate at 50% capacity or greater, except for planned or forced outage. As noted above, the Report indicates that the Facilities operated at 53.34% capacity during the first contract year. As support for this level of operation, Stored Solar provided a spreadsheet that indicated that the Facilities generated 116,791 megawatt hours (MWh) of energy. Report at Attachment 1A. The spreadsheet also indicated that the hours in which the Facilities were in forced and planned outages were 5,233 hours and 1,368 hours, respectively. *Id.* Stored Solar provided a report from the New England Independent System Operator (ISO-NE) showing the periods for which the ISO-NE had approved each of these forced and planned outages. Report at Attachment 1B. In response to an information request from Commission Staff, Stored

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<sup>3</sup> The analysis presented in this Section III(A) is intended only to be guidance to the contracting counter-party, CMP, and does not foreclose any contractual remedies available to CMP as may be appropriate.

Solar identified the reason for each forced outage listed in the spreadsheet provided in Attachment 1A to the Report. EXM-001-001.

In considering whether the bid of Stored Solar was eligible to receive a subsidy contract, the Commission addressed this requirement of the Biomass Act as it pertained to the 60 days prior to the RFP. Part II Order at 6-8. The Facilities did not operate during this period, and the Commission questioned whether Stored Solar's bid had failed to meet the requirement of the Biomass Act and was thus ineligible for consideration. *Id.* Ultimately, the Commission found that the Facilities were in forced outage during this period and, therefore, under the forced and planned outage exception, had met the requirement of the Act. *Id.* at 8.

In reaching this determination, the Commission stated that because no definition for forced or planned outage is provided in the Biomass Act or elsewhere in Maine law the definition and classification by ISO-NE is persuasive. *Id.* Stored Solar, just as it has done in the Report, had provided a report at that time from ISO-NE showing that it considered the outages experienced by the Facilities during the relevant time period were due to forced outages. *Id.* Therefore, the Commission found that the Stored Solar Facilities met the exception to the operating at 50% capacity requirement for the 60 days prior to the RFP. *Id.*

In an effort to effectuate the Biomass Act mandate that the Facilities operate at 50% capacity during the term of the Agreement, the contract includes a specific calculation to determine the capacity of the facilities for each contract year. Agreement at 8. Consistent with the Biomass Act, the Agreement excludes the hours during which the Facilities were in forced or planned outage from the calculation. *Id.* The remaining

hours during the year are then divided into the operating hours for the Facilities to determine the percentage of the year during which the Facilities were operating. *Id.*

The Commission has reviewed the information provided by Stored Solar and finds that it has met the obligation to operate the Facilities at 50% capacity or greater during the first contract year. All of the hours during which Stored Solar claims that the Facilities were in forced or planned outage are supported by the ISO-NE report. The Commission again recognizes this classification by ISO-NE as persuasive in defining forced or planned outage, and accepts the hours presented by Stored Solar during which its Facilities were in forced or planned outage. The remaining hours available during the year are then divided into the hours during which the Facilities generated electricity. Stored Solar's monthly generation has been provided to and confirmed by its contracting counter-party, CMP. The Commission accepts these hours as accurate and consistent with the Agreement. The resulting calculation yields an operating capacity for the Facilities of 53.34%. Accordingly, during the first contract year, Stored Solar has met the requirement of the Biomass Act and the Agreement that its Facilities operate at 50% capacity or greater.

B. In-State Benefits

Section 5.1 of the Agreement provides that the "determination of Actual In-state Benefits is made by the Commission, in its reasonable discretion, in accordance with the provisions of this Agreement, based on a reasonable weighting of the economic value provided by each category of In-State Benefits." (Emphasis Added). Thus, the Agreement clearly indicates that the Commission's review would be more than just a simple tallying of jobs, tons of biomass, and dollars spent during the contract year.

Rather, as stated in the Agreement, in determining Stored Solar's performance with respect to the required in-state benefits, the Commission would consider the actual value to the economy provided by each metric category.

1. In-Plant Jobs

Pursuant to the Agreement, Stored Solar was required to produce 42 full time-equivalent (FTE) in-plant jobs during the first contract year. According to the Report and supporting documentation, Stored Solar provided a total of 41.07 FTE jobs during the Contract Year. Stored Solar produced reports from its payroll processing vendor that support the number of hours worked by non-exempt employees throughout the year as well as the number of exempt salaried employees by month. In addition, the Report provides information about the nature of these jobs and documents that all payments to employees are made through the payroll processing company and that all such payments had been made. The Commission accepts the Company's calculation of 41.07 FTE jobs, which is 97.79% of the required amount. Furthermore, the Commission finds that the nature of these jobs is consistent with the types of jobs contemplated by Stored Solar's proposal and in the Commission's evaluation of the economic value they would provide.

2. Biomass Purchases

Pursuant to the Agreement, during the first contract year, Stored Solar was required to purchase 500,000 tons of biomass sourced from within the State of Maine. In its Report, Stored Solar reports to have purchased 522,507.81 tons, or 104.5% of its required obligation.

The Company provided scale reports documenting that 232,116.19 tons were received by Stored Solar. These scale reports document the number of loads and the total load weight of the biomass by month and by supplier actually delivered to Stored Solar. In reporting the actual in-state benefits for this metric, the Company has appropriately excluded amounts sourced from Canada from the total. Stored Solar provided affidavits from most major suppliers verifying the quantity delivered and confirming payment, as well as scale reports and check stubs for the smaller suppliers.

Stored Solar did not provide an affidavit or other proof of payment for purchases from **[BEGIN CONFIDENTIAL]** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] **[END CONFIDENTIAL]**

Because Stored Solar has not provided affidavits or other proof of payment to these suppliers, the combined quantity of 23,234.83 tons has been excluded from the quantity of biomass purchased stated in the Annual Report.

Stored Solar also provided "Purchased Biomass Notes" for an additional 300,000 tons of biomass "stumpage" that was included in the Report total. The **[BEGIN**

**CONFIDENTIAL]** [REDACTED]

[REDACTED] **[END CONFIDENTIAL]** (Stumpage Agreement)<sup>4</sup> associated with this 300,000

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<sup>4</sup> ODR-001-009 Attachment B



[REDACTED]

[REDACTED]

**[END CONFIDENTIAL]**

The Stumpage Agreement may provide the Company with access to biomass which it will purchase in the future. As such, it is in the nature of an “options” contract rather than a purchase of biomass, the latter of which would result in economic output from logging and trucking jobs, as well as related induced economic output.

In its proposal in response to the RFP, Stored Solar provided no indication that the 500,000 tons of fuel purchases to which it committed included both biomass purchases and purchases of access to that biomass. Stored Solar’s bid committed the company to purchasing 500,000 tons of fuel. Stored Solar indicated that this number was informed by past biomass purchases, as represented in monthly scale reports for the Facilities. As explained, these scale reports describe actual biomass purchases, not stumpage purchases to ensure biomass access in the future. Thus, Stored Solar’s bid indicated that its biomass commitment was for the purchase of the harvested fuel.

Further, including the purchases of access to biomass would be inconsistent with how the Commission analyzed and selected proposals in response to the RFP, as explained in the Part II Order. As noted above, the Commission estimated the in-state benefits associated with each metric, including biomass purchases, based on the economic value it would provide to the State. In significant part, this economic value results from direct, indirect, and induced employment. In the case of the biomass purchase metric, the economic value results from employment during the contract year related to harvesting and delivering biomass for the Stored Solar facilities and

associated value related to these activities. The purchase of stumpage provided no such value in the first contract year.

Finally, including purchases to access biomass in the future in Stored Solar's biomass purchases is not consistent with the Agreement, which is intended to effectuate the Act. According to the specific terms of the Agreement, Stored Solar has committed to purchasing biomass. Purchasing the access to biomass does not equate to the purchase of biomass itself. To the extent that this understanding is ambiguous under the Agreement, the Act makes such a distinction clear when it provides that in-state benefits may include both "payments for fuel harvested in the State" and "payment for in-state resource access." Although permitted to include both under the Act, the biomass metric in Stored Solar's bid included only a commitment to purchase 500,000 tons of fuel harvested in the State. It was this commitment that the Commission used to analyze the bids and that was ultimately incorporated into the contract. Had Stored Solar proposed 300,000 tons of biomass access and 200,000 tons of biomass purchases, the Commission's analysis of Stored Solar's bid would have likely produced a different result. Whether this difference would have a positive or negative impact on the analysis of Stored Solar's bid is immaterial, as the time for that analysis has passed. Stored Solar must adhere to the commitments of its bid, which have been included in the Agreement. Stored Solar cannot retroactively substitute one in-state benefit for another, contrary to the terms of the Agreement.

Based on the exclusion of the purchases for which no proof of payment was provided and the exclusion of the 300,000 tons of stumpage, the Commission finds that

Stored Solar purchased 199,272.17 tons of eligible in-state biomass during the contract year. This is 39.85% of amount required by the Contract.

3. Capital Expenditures

Stored Solar's required in-state benefits obligation includes the commitment to make \$2,500,000 in capital expenditures during the first contract year. In its Report, Stored Solar claimed capital expenditures of \$2,503,967.58. In response to EXM-001-016, Stored Solar classified the capital expenditures by the purpose of the investment into the following four categories: **[BEGIN CONFIDENTIAL]** [REDACTED]

[REDACTED]

[REDACTED] **[END**

**CONFIDENTIAL]** The attached Confidential Exhibit A contains a more detailed description of the capital projects, a description of the work, and the total amounts spent in each category. In addition, the Company has provided copies of invoices, bills of sale and/or proof of payment for substantially all the expenditures included in the total capital expenditures.

In its proposal, Stored Solar identified as an in-state benefit more than \$2,500,000 of capital investment associated with "plant upgrade and restocking inventory." As noted, LEI's analysis of the economic benefits expected from the Stored Solar proposal included this investment. The Commission finds that the capital expenditures associated with investments required to make the plants operational and for improvements to the reliability and performance of the plants are of the nature included in the LEI economic analysis which underpinned the Commission's decision to award a contract to Stored Solar. In addition, investments identified with the pre-design

and permitting phase of co-host facilities are also of the nature of investments made to improve the long-term viability of these plants.

Certain of the investments related to **[BEGIN CONFIDENTIAL]** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] **[END CONFIDENTIAL]** Specifically, the purchase of **[BEGIN CONFIDENTIAL]** [REDACTED]

[REDACTED]

[REDACTED] **[END CONFIDENTIAL]** are integral to the operation of the plants and, thus, in the nature of a “plant upgrade.”

However, Stored Solar has also claimed that several transactions **[BEGIN CONFIDENTIAL]** [REDACTED] **[END CONFIDENTIAL]** that are neither in the nature of a “plant upgrade” nor “restocking inventory” should be included in the capital investments required pursuant to the Agreement. These transactions and their commercial terms are summarized in the attached Confidential Exhibit B. **[BEGIN CONFIDENTIAL]** [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] **[END CONFIDENTIAL]**

As noted above, the LEI analysis and the Commission’s evaluation of the biomass proposals received in response to the RFP included the value of the economic output during each of the two contract years from various items, including the capital

investment set forth in each bidder's proposal. Stored Solar's purchases of logging and truck/trailer equipment in late December are not of the nature of the type of capital investment that was contemplated in the LEI analysis and that led to the decision to award a contract to Stored Solar. Specifically, these transactions do not appear to have caused any incremental employment or other economic output during the contract year, nor are they of the type that would improve the efficiency or operations of the generating plants. Rather, the purchase of logging equipment from logging operations appears to be a transfer payment from which no economic benefit to the State is derived.

Stored Solar has explained that the acquisition of logging equipment was related to a decision to partially vertically integrate its operation. The Company has not, however, provided any internal communication, analyses or supporting documentation of the need to vertically integrate or the decision to purchase logging equipment.

**[BEGIN CONFIDENTIAL]**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**[END CONFIDENTIAL]**

Given that these purchases of logging and trucking/trailer equipment in the last week of December 2017 are not likely to have produced any in-state economic benefits during the contract year, the Commission excludes the \$909,738.10 associated with these purchases from the capital expenditures total. Thus, the Commission finds that

Stored Solar has made capital expenditures of \$1,594,229.48 or 63.77% of the required in-state benefits.

4. Adjustment to Contract Payment

As required by the Act, the Stored Solar Agreement includes a provision for an adjustment to the contract payments if the required in-state benefits are not provided. Section 5.2 of the Agreement provides that, “After each Contract Year, if the Commission determines that Seller has not provided Actual In-State Benefits...that are equal to or greater than the Required In-state Benefits, the Annual Contract Payment shall be reduced by the following factor:  $(1 - (\text{Actual In-state Benefits} / \text{Required In-State Benefits}))$ .” As previously explained, Section 5.1 of the Agreement provides that the “determination of Actual In-state Benefits is made by the Commission, in its reasonable discretion, in accordance with the provisions of this Agreement, based on a reasonable weighting of the economic value provided by each category of In-State Benefits.”

As noted in the Part II Order, pursuant to the Act, in-state economic benefits include items such as capital investments to improve long-term viability of a biomass facility, permanent direct jobs, payments to municipalities, payments for fuel harvested in the State, payments for in-state resource access, in-state purchases of goods and services, and construction-related jobs and purchases. Part II Order at 9. The LEI Report provided an analysis and estimate of the overall in-state economic benefits derived from each proposal and included more detailed break-down of the economic benefits to be provided in various sectors related to the type of economic activity. The Stored Solar Agreement includes the three significant commitments specified by Stored

Solar in its proposal – jobs, biomass purchases, and capital investments – as the measures against which its performance with respect to providing the economic benefits in its proposal would be assessed by the Commission.

As noted above, the LEI Report provided estimates of the economic value to the State associated with the Stored Solar proposed operations in several sectors, including: biomass electric power generation, which includes employment at the West Enfield and Jonesboro facilities and the value of the electricity output of the facilities, i.e. energy, capacity and RECs; commercial logging (biomass purchases); and maintenance and repair construction (capital expenditures). These sectors align with the required in-state benefits metrics that are included in the Stored Solar Agreement. Given that the contractually required in-state benefits metrics themselves are expressed in different units, the Commission has used the values from the LEI Report, which are all expressed in terms of dollars, to measure Stored Solar's overall performance with respect to providing the required in-state benefits and to determine the reduction to annual contract payments pursuant to Article 5 of the Agreement.

In its report, LEI estimated total output for the first year of the contract, calendar year 2017, for each of these sectors and overall. As noted, the economic output associated with the biomass generation includes both the effect of the jobs at the plants and the energy generated. The Commission has adjusted the economic output value associated with this sector to remove the value of the energy, capacity and RECs as identified in the LEI Report, see Exhibit C, thus, reducing it to reflect the economic value of only the in-plant jobs.

Based on the Commission’s findings above with respect to Stored Solar’s performance in each of the three metric categories and the dollar value of the economic output in each metric category, as measured by LEI, the Commission has determined an overall level of actual in-state benefits provided by Stored Solar in the first contract year. This is shown in Figure 1 below. As shown, the Commission has determined that Stored Solar provided actual in-state benefits equal to 79.20% of its required in-state benefits.

Because the Commission has determined that Stored Solar did not provide the full required in-state benefits, the annual contract payment that would be owed to Stored Solar if it had provided all the required in-state benefits is reduced proportionately as shown in Figure 1 below. This reduction results in an amount owed to Stored Solar for the first contract year of \$1,238,612.36.

**Figure 1**

Contract Metric	Required In-State Benefits	Actual In-State Benefits	Percent Actual vs. Required	Economic Value per LEI Analysis	Actual Output Delivered
In-plant FTE jobs	42	41.07	97.786%	\$ 12,570,025	\$ 12,291,689
In-state biomass purchases	500,000	199,272	39.850%	\$ 4,495,421	\$ 1,791,425
Capital Expenditures	\$ 2,500,000	\$ 1,594,230	63.769%	\$ 3,678,488	\$ 2,345,742
				\$ 20,743,934	\$ 16,428,857
			Contract payment reduction		20.80%
			Invoice		\$ 1,563,936.79
			<b>Adjusted Contract Payment</b>		<b>\$ 1,238,612.36</b>

**IV. CONCLUSION**

For the foregoing reasons the Commission finds that, during the first contract year, the Stored Solar has operated the Facilities at 50% capacity or greater and has

provided \$16,428,857 of its \$20,743,934 required in-state benefits, resulting in a reduction to the contract price of 20.80%.

Accordingly, the Commission

**ORDERS**

1. That Central Maine Power Company provide payment to Stored Solar in the amount of \$1,238,612.36, pursuant to the terms of the Agreement

Dated at Hallowell, Maine, this 16th day of March, 2018

**BY ORDER OF THE PRESIDING OFFICERS**

*/s/ Mitchell Tannenbaum*

Mitchell Tannenbaum

*/s/ Lee Ewing*

Lee Ewing





<b>Contract Metric</b>	<b>Required In-State Benefits</b>	<b>Actual In-State Benefits</b>	<b>Percent Actual vs. Required</b>	<b>Economic Value per LEI Analysis</b>	<b>Actual Output Delivered</b>
In-plant FTE jobs	42	41.07	97.786%	\$ 12,570,025	\$ 12,291,689
In-state biomass purchases	500,000	199,272	39.850%	\$ 4,495,421	\$ 1,791,425
Capital Expenditures	\$ 2,500,000	\$ 1,594,230	63.769%	\$ 3,678,488	\$ 2,345,742
				\$ 20,743,934	\$ 16,428,857
			Contract payment reduction		20.80%
			Invoice		\$ 1,563,936.79
			<b>Adjusted Contract Payment</b>		<b>\$ 1,238,612.36</b>