

Resolution No.: 16-1153
Introduced: October 13, 2009
Adopted: October 20, 2009

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: Council President at the Request of the County Executive

SUBJECT: Electricity Maximization Pilot Program

Background

1. The County entered into a Service Agreement (the Agreement) on November 16, 1990 with the Northeast Maryland Waste Disposal Authority and Ogden Martin Systems of Montgomery, Inc., now known as Covanta ("Covanta") for the design, engineering, construction, and operation of the waste-to energy facility known as the Montgomery County Resource Recovery Facility.
2. The Agreement contains a performance standard whereby the operator, Covanta, guarantees that it will generate a certain amount of electricity per ton of waste burned.
3. The County Department of Environmental Protection (DEP) determined that, due to the differences in on-peak versus off-peak electricity market prices, the pursuit of that standard inhibits the generation of maximum electricity sales revenue that could otherwise benefit the County.
4. In order to take maximum advantage of the beneficial effects of electricity market (on-peak versus off-peak) pricing, the County seeks to modify the Agreement by entering into a one year electricity revenue maximization pilot program (the Pilot).
5. The Pilot would temporarily replace the current electricity-per-ton-of-waste performance standard with a set of monthly revenue generation guarantees defined in terms of overall dollars earned per megawatt hour generated, assuring the County a substantially higher level of electricity sales than under current terms, plus the majority share of any electricity sales generated above those new guarantees.
6. Section 5.2.1.2.c of the County's Comprehensive Solid Waste Management Plan states: "The County must not approve, or allow to take effect, under either the Waste Disposal or Service Agreement, any material change in the capacity or operation, or any material reduction in performance or environmental standards, of the facility or the transportation system unless the Director of DEP has submitted the change to the County Council."

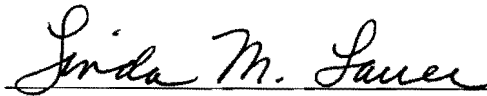
7. DEP finds that entering into the Pilot, which is scheduled to conclude on June 30, 2010, incorporates a more beneficial performance standard and at the same time will substantially increase the electricity revenue generated and credited to the County for the duration of the Pilot.

Action

The County Council for Montgomery County, Maryland approves the following action:

The attached contract modification for the Electricity Revenue Maximization Pilot Program at the County's Resource Recovery Facility between the County and the Northeast Maryland Waste Disposal Authority is hereby approved.

This is a correct copy of Council action.



Linda M. Lauer, Clerk of the Council

**ELECTRICITY MAXIMIZATION PILOT PROGRAM CONTRACT
MODIFICATION TERMS**

- 1) Covanta will operate the Dickerson Facility in a manner to maximize energy revenue by:
 - a. Burning the maximum amount of trash during On-Peak hours while conserving trash during Off-Peak hours.
 - b. Minimizing unscheduled down time on the turbine and boilers during On-Peak hours.
 - c. Properly maintaining or even improving the efficiency of the boilers and/or turbine.
- 2) A Revenue Sharing Guarantee is \$/MWh for each month is shown in Paragraph 12.
- 3) If Covanta performs such that the Average \$/MWh in a month is greater than the Revenue Sharing Guarantee for that month, Covanta will receive an energy incentive in that month equal to 45% of the additional revenue that was generated as a result of the performance.
- 4) The additional revenue generated above the Revenue Sharing Guarantee will be calculated as follows:
 - a. $\text{Company Incentive} = (\text{Average } \$/\text{MWh of actual sales} - \text{Revenue Sharing Guarantee}) * \text{Actual MWh sold for the month} * 45\%$.
 - b. Where the "Actual MWh sold for the month" is the MWh sold as stated by the purchaser of electricity.
 - c. The Average \$/MWh of actual sales is the total energy revenue for Energy, not inclusive of any revenues from the sale of capacity, renewable energy credits or any other environmental attribute, divided by the "Actual MWh sold for the month."
- 5) If Covanta fails to meet the monthly Revenue Sharing Guarantee, Covanta will pay damages equal to the shortfall in that month as calculated as follows:
 - a. $\text{Covanta Shortfall} = (\text{Revenue Sharing Guarantee} - \text{Average } \$/\text{MWh of actual sale}) * \text{Actual MWh sold for the month}$.
- 6) Covanta Incentive will be paid to Covanta on a monthly basis after the Authority receives its electricity revenues from the purchaser of the electricity.
- 7) Covanta Shortfall will be calculated and paid on a monthly basis.
- 8) The current Covanta Share of Electricity Revenue shall remain the same (Section 5.1 of the Service Agreement – Covanta receives 8% of the revenue up to \$960,000 per year) and Covanta Incentive or Covanta Shortfall will be calculated independently from Covanta Share of Electricity Revenue.
- 9) The Electricity Maximization Pilot Program will be conducted from July 1, 2009 through June 30, 2010.

- 10) During the time period of the Electricity Maximization Pilot Program, Covanta will not be responsible for meeting the existing contract terms for the Guaranteed Kilowatt Production (Section 5.4.2 of Schedule 5 of the Service Agreement).
- 11) All terms and conditions of the Service Agreement, including the Performance Standards, that are not expressly modified under the terms of this Amendment, shall remain in place.
- 12) Revenue Sharing Guarantee:

Month	Monthly Average Pricing based on Flat Generation	Revenue Sharing Guarantee (1.75% Increase of Pricing based on Flat Generation)
July 2009	\$80.72	\$82.13
August 2009	\$78.26	\$79.63
September 2009	\$58.51	\$59.54
October 2009	\$54.82	\$55.78
November 2009	\$55.80	\$56.78
December 2009	\$65.36	\$66.51
January 2010	\$80.35	\$81.75
February 2010	\$79.32	\$80.71
March 2010	\$70.09	\$71.32
April 2010	\$59.98	\$61.03
May 2010	\$55.59	\$56.57
June 2010	\$62.04	\$63.12

All capitalized terms used herein that are not defined herein have the meanings given such terms under the Service Agreement dated November 16, 1990 between the Authority and Covanta (as amended and supplemented).