

# CASE STUDY – ELECTRIC UTILITY RESTRUCTURING – MASSACHUSETTS RENEWABLE ENERGY TRUST FUND

**John A. Merritt**  
Merritt Environmental Solutions  
Division of Merritt Communications, Inc.  
Natick, Massachusetts

## ABSTRACT

Electric utility restructuring has a variety of implications for waste-to-energy (WTE) facilities. Among them are impacts on power purchase contracts, markets for sale of generated power and whether or not WTE will be considered a “renewable energy” source with respect to mandated fractions of state or federal portfolios of energy production. In Massachusetts, there is an additional interesting outcome of that state’s statute restructuring the electric utilities. That is the creation of a trust fund by establishing a mandatory surcharge on most power sold in the state, a portion of which will be used to assist municipalities facing steeply escalated tipping fees as a result of retrofits required under the clean air act.

This discussion will provide a brief history of the Massachusetts, Renewable Energy Trust Fund (RETF), delineate key provisions that apply to WTE facilities, describe the financial benefits to municipalities and characterize the current status of the fund.

## INTRODUCTION

Representatives of a regional consortium of Massachusetts communities, facing stiff clean air retrofit costs at their WTE disposal facility, lobbied the legislature to establish a fund to offset some of those costs as part of the restructuring of the electric power industry in the state. The result of their efforts is the RETF. To date, no funds have been distributed to communities for several reasons that will be detailed below. However, this fund will ultimately provide some needed relief to affected municipalities.

## BRIEF HISTORY

Prior to passage of Massachusetts’ restructuring statute in 1997, representatives of many communities using WTE as their primary means of disposal were already facing the high costs of retrofits, typical of facilities across the country, many of which were constructed in the 80s. They viewed the coming restructuring bill as an opportunity to find some funding relief. The tack was to make a strong case for WTE as renewable and worthy of support. Retrofit costs were characterized as a burden that could threaten the viability of some facilities and hence remove one or more renewable sources of energy.

The proponents of the fund were successful and the bill included Section 68 which stated: *“There is hereby established and set up ...a separate trust fund to be known as the Massachusetts renewable energy trust fund...for the public purpose of generating the maximum economic and environmental benefits over time from renewable energy to the ratepayers of the commonwealth...”* And, thus the RETF was established. The revenue to fund the trust is derived from a “renewables charge” currently itemized on every consumer’s electric bill, except customers of municipal power companies. The language establishing the authority for collecting the money to implement this fund is found in Section 20: *Beginning on March 1, 1998, the department is hereby authorized and directed to require a mandatory charge per kilowatt-hour for all electricity consumers of the commonwealth, except those consumers served by a municipal lighting plant which does not supply generation service outside its own service territory or does not open its service territory to competition at the retail level, to support the development and promotion of renewable energy projects in accordance with the provisions of section 4E of chapter 40J. Said charge shall be the following amounts: three-quarters of one mill (\$0.00075) per kilowatt-hour in calendar year 1998; one*

*mill (\$0.001) per kilowatt-hour in calendar year 1999; one and one-quarter mill (\$0.00125) per kilowatt-hour in calendar year 2000; one mill (\$0.001) per kilowatt-hour in calendar year 2001; three-quarters of one mill (\$0.00075) per kilowatt-hour in calendar year 2002; and one-half of one mill (\$0.0005) per kilowatt-hour in each calendar thereafter.* The exception described in this language for municipal power companies, has formed the basis of a dispute, which has delayed any distribution of the trust funds to date. A citizens' lawsuit was filed to challenge the surcharge exemption for municipal power companies. A resolution is anticipated for summer of 2000. When resolved, funds already collected will be freed for distribution in a wide variety of ways as established in the language creating the RETF.

## KEY PROVISIONS

The following paragraph provides the basis for WTE ratepayer assistance for retrofits

*(2) In calendar year 1998 through calendar year 2002, the revenues derived from one-quarter of one mill (\$0.00025) of the charge assessed pursuant to the preceding paragraph in each such year shall be set aside and expended pursuant to implementing the provisions of paragraph (2) of subsection (i) of section 4E of chapter 40J.*

The cited "paragraph (2)," which carves out retrofit funds, follows.

*(2) The board shall make available from monies in the fund in accordance with subsection (a) grants to municipalities and other governmental bodies to provide debt service assistance in conjunction with alleviating payment obligations incurred by said municipalities and other governmental bodies through an existing contractual agreement pursuant to the installation of pollution control technology and the implementation of other operational improvements to existing renewable energy projects and facilities in the commonwealth utilizing waste-to-energy technology as a component of municipal solid waste plant technology in commercial use, or the closure of any such existing facilities;*

The section delineates a fairly long list of activities eligible for the balance of the funds provided. However, WTE receives the only specific earmarking of a set fraction of the funding. The other activities eligible for support are delineated below.

*For the purposes of expenditures from the fund, renewable energy technologies eligible for assistance shall include the following: solar photovoltaic and solar thermal electric energy; wind energy; ocean thermal, wave, or tidal energy; fuel cells; landfill gas; waste-to-energy which is a component of conventional municipal solid waste plant technology in commercial use; naturally flowing water and hydroelectric; low emission, advanced biomass power conversion technologies, such as gasification using such biomass fuels as wood, agricultural, or food wastes, energy crops, biogas, biodiesel, or organic refuse-derived fuel; and storage and conversion technologies connected to qualifying generation projects; provided, however, that expenditures related to waste-to-energy projects or facilities shall be limited to funds segregated pursuant to paragraph (2). Such funds may also be used for appropriate joint energy efficiency and renewable projects, as well as for investment by distribution companies in renewables and distributed generation opportunities, if consistent with the provisions of this section. The following technologies or fuels shall not be considered renewable energy supplies: coal, oil, natural gas except when used in fuel cells, and nuclear power.*

So, I think it is fair to say that this provision, coupled with WTE's likely inclusion in the mandated "Renewable Portfolio Standard" currently being established, represents a pretty good recognition of these facilities as an integral part of not only Massachusetts's waste management infrastructure, but also its valued renewable energy generation.

## FINANCIAL IMPACTS ON COMMUNITIES

The total amount collected and earmarked for WTE retrofit funding, as of April 17, 2000, is approximately \$15,000,000, (of about \$75,000,00 collected in total under this provision.) The current estimate for all retrofit-related capital costs, at the five largest WTE facilities in the state is about \$85,000,000, excluding cost of debt service or other related costs. This number and the way it is apportioned to contract community tip fees as a pass-through cost is currently under close analysis by the Mass. Technology Collaborative and will inform the final distribution formula for these funds. Once the data has been thoroughly reviewed, it will be possible to determine the incremental grant benefits that contract communities will be eligible to receive.

## CURRENT FUND OPERATION

Unfortunately, there is no current operation of the RETF, pending that legal resolution. However, the Massachusetts

Technology Collaborative, the agency charged with implementing the trust fund activities, has begun to meet with community representatives from WTE facilities across the state and reviewed their contractual obligations with respect to change in law retrofit requirements. The agency's plan also includes holding a series of stakeholder meetings during spring, in order to be able to "hit the ground running" later in 2000, when the legal obstacles have been removed. At this date, April 17, 2000, the first round of these stakeholder meetings to establish policies and ground rules is about ten days off. It is still expected that the lawsuit freezing these funds will be resolved by early summer and that the fund will be ready to begin distributing funds later in this year. The latest information on this currently developing process will be included in my NAWTEC VIII conference presentation in May.