



## Legislation Text

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Clerk 01/20/2011

AN ORDINANCE relating to the sale of emissions credits held by the county; authorizing the county executive to enter into an agreement for the sale of emissions credits associated with purified landfill gas produced from the Cedar Hills regional landfill to Puget Sound Energy, Inc.; and adding a new section to K.C.C. chapter 4.56.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

**SECTION 1. Findings:**

- A. The solid waste division operates the Cedar Hills regional landfill, accepting municipal solid waste from unincorporated King County and thirty-seven cities.
- B. Landfill gas is generated by the decomposing waste buried in the Cedar Hills regional landfill.
- C. As authorized by Ordinance 15872, the solid waste division contracted with Bio Energy (Washington), LLC, to purchase landfill gas produced at the Cedar Hills regional landfill and to build and operate a purification and compressing plant to refine the landfill gas to meet quality standards required for sale in commercial natural gas fuel markets. The contract, the Amended and Restated Project Development and Gas Sales Agreement, was signed on February 29, 2008.
- D. Bio Energy (Washington), LLC, subsequently entered into a contract with Puget Sound Energy to sell to Puget Sound Energy the resulting purified gas. The county is not a party to that contract, the Cedar Hills - Pipeline Quality Gas Purchase and Sale Agreement, dated October 9, 2008.
- E. The landfill gas generated from decomposing waste buried in the Cedar Hills regional landfill is

classified as a "renewable resource" as defined in RCW 19.285.030(18) of chapter 19.285 RCW, the Energy Independence Act.

F. Under 4.13 of the Amended and Restated Project Development and Gas Sales Agreement, the solid waste division owns and retains any and all rights to any emissions credits attributable to the landfill gas produced at the landfill. If sold separately, these rights may have value, but, given the emerging nature of the marketplace, that value is not well-defined. When sold together with the gas, these rights can be used by electric utilities to produce renewable energy credits or other similar credits or certificates of proof, howsoever titled, that qualify towards meeting utilities' renewable energy quotas created under the Energy Independence Act or under the laws of other jurisdictions.

G. Puget Sound Energy approached King County to enter into a purchase and sale agreement to acquire that portion of the emissions credits attributable to or generated or otherwise provided in connection with the purification and compressing plant, the plant site or the generation or sale of gas.

H. Because Puget Sound Energy is already purchasing the purified gas generated from the landfill, it is the only entity with the demonstrated ability to capture the added market value associated with bundling the gas with the emissions credits attributable to the gas. Puget Sound Energy has experience with the sale of emissions and other renewable energy credits or certificates of proof, howsoever titled, in the energy market. King County does not have a comparable level of expertise.

I. The solid waste division evaluated the alternatives to selling the rights to emissions credits to Puget Sound Energy and determined that entering into a negotiated direct sale with Puget Sound Energy is the best alternative for the public.

J. The solid waste division retained an independent consultant to independently evaluate alternatives for selling the rights to emissions credits, and it reached the same conclusion as the division.

K. In addition, the solid waste division retained a second consultant to conduct a 2010 market survey seeking similar transactions for comparison.

L. The consultants' reports support the division's conclusions that the proposed sale of the rights to emission credits to PSE presents the unique circumstances that there has been no directly comparable sale of rights to emissions credits and that currently there is no market for selling rights to the emission credits alone, without the gas. These unique circumstances mean no direct market price comparisons are available.

M. Landfill emission credits from the Cedar Hills landfill are presently a novel form of intangible property that has economic value. The purchase and sale of such rights is a newly developing type of economic transaction and cannot readily be accomplished within the traditional framework of real or personal property surplus procedures, valuation, and sale or lease as presently set forth in the county code. For this reason, and because of the unique circumstances presented by this transaction, a negotiated direct sale is in the best interests of the public.

NEW SECTION. SECTION 2. There is hereby added to K.C.C. 4.56 a new section to read as follows:

Sales of rights, title or interests in emissions credits, offsets or allowances or renewable energy certificates, credits, benefits, environmental air quality credits and any similar rights, title or interests held by the county are exempt from the real and personal property requirements of this chapter when unique circumstances are present. Such sales may be made in the best interests of the public to a person or entity through a direct agreement negotiated by the county executive and approved by the county council.

SECTION 3. The King County council hereby finds that a direct negotiated sale of emissions credits and related rights attributable to or generated or otherwise provided in connection with the purification and compressing plant, the plant site or the generation or sale of gas produced from the Cedar Hills regional landfill to Puget Sound Energy in the best interests of the public.

SECTION 4. The executive is hereby authorized to execute a purchase and sale agreement with Puget Sound Energy substantially in the form of Attachment A to this ordinance.