

STATE OF NEW HAMPSHIRE

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February 23, 2015

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Debra Howland
Executive Director
New Hampshire Public Utilities Commission
21 S. Fruit Street, Suite 10
Concord, New Hampshire 03301-7319

RE: DE 15-035 Electric Renewable Portfolio Standard
Comments of the Office of the Consumer Advocate

Dear Ms. Howland:

Enclosed please find an original and six copies of the Office of the Consumer Advocate's
Comments in the above captioned matter.

If you have any questions about this filing, please contact our office. Thank you.

Respectfully,

Susan W. Chamberlin
Consumer Advocate

cc: Service list via electronic mail

FILED

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION

DE 15-035

ELECTRIC RENEWABLE PORTFOLIO STANDARD

COMMENTS OF THE OFFICE OF THE CONSUMER ADVOCATE

On January 21, 2015 the New Hampshire Public Utilities Commission (PUC or Commission) issued an order of notice in the above-captioned case to consider whether it is appropriate for the Commission to adjust Class III Renewable Portfolio Standards (RPS) requirements. The Commission is authorized “to adjust Class III RPS requirements as necessary and consistent with the purposes of Chapter RSA 362-F.” *Electric Renewable Portfolio Standard*, DE 15,035, Order of Notice at 1 (January 21, 2015.) The limits on the range of adjustments are that “the requirements are equal to an amount between 85 percent and 95 percent of the reasonably expected potential annual output of available eligible sources after taking into account demand from similar programs in other states.” *Id* citing RSA 362-F:4 VI.

Considering changes to the Class III RPS requirements necessitates an analysis of the overall purposes of RSA 362-F, which are spelled out in the legislation:

Renewable energy generation technologies can provide fuel diversity to the state and New England generation supply through use of local renewable fuels and resources that serve to displace and thereby lower regional dependence on fossil fuels. This has the potential to lower and stabilize future energy costs by reducing exposure to rising and volatile fossil fuel prices. The use of renewable energy technologies and fuels can also help to keep energy and investment dollars in the state to benefit our own economy. In addition, employing low emission forms of such technologies can reduce the amount of greenhouse gases, nitrogen oxides, and particulate matter emissions transported into New Hampshire and also generated in the state, thereby improving air

quality and public health, and mitigating against the risks of climate change. It is therefore in the public interest to stimulate investment in low emission renewable energy generation technologies in New England and, in particular, New Hampshire, whether at new or existing facilities.

N.H. Rev. Stat. § 362-F:1 Purpose.

The New Hampshire General Court passed RSA 362-F (RPS statute) in 2007. *Id.*, ch 26:2, (eff. July 10, 2007). From time to time since 2007 legislation has been proposed to repeal the RPS statute. Such efforts have not been successful. The RPS statute has been in place in some form for 8 years and remains New Hampshire's standard on renewable energy policy. Any Class III adjustments for 2015 and 2016 must support the policy goals of fuel diversity, use of local fuels and resources and lowering regional dependence on fossil fuels. *Id.* The Commission must look at the RPS statute's implementation up to and including 2015 and 2016 and consider whether implementation continues to be consistent with the purposes of chapter 362-F as required.

The Commission previously interpreted the RPS statute when analyzing the merits of the purchased power agreement between LaidLaw BioPower plant and Public Service of New Hampshire (PSNH). *The Petition for Approval of Purchased Power Agreement with Laidlaw Berlin BioPower, LLC*, 96 N.H. P.U.C. 130 (2011). The question in Laidlaw was whether the Renewable Energy Credit (REC) provisions of the RPS statute ended in 2025. *Id.* The Commission held:

We must respect the purpose of the statute to 'stimulate investment in low emission renewable energy generation technologies... and the express legislative recognition of the 'importance of stable long-term [RPS] policies.' The meaning and effect of these provisions are substantially undermined if we interpret the statute to mean that the Legislature, in enacting RSA 362-F in 2007, intended for the RPS program and the obligations of electric utilities thereunder to come to an abrupt halt in 2025.

Id. citing RSA 362-F:5.

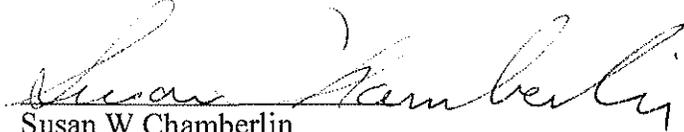
Here, the utilities seek a modification of the Class III REC requirements to 0 for 2015 and 2016. Reducing to 0 is another way of bringing the RPS program to an abrupt halt, even if it

is a temporary one. Such an extreme change in REC requirements creates market uncertainty and undermines the long term stability of the RPS program. To do so is contrary to the intent of the RPS statute and prior Commission interpretation.

In its *Laidlaw* analysis the Commission referenced the New Hampshire state energy policy explaining that "...New Hampshire energy policy pursuant to RSA 378:37 is 'to meet the energy needs of the citizens and businesses of the state at the lowest reasonable cost while providing for the reliability and diversity of energy sources; the protection of the safety and health of the citizens, the physical environment of the state, and the future supplies of nonrenewable resources; and consideration of the financial stability of the state's utilities.' *Id* citing RSA 378:37. A short term view of "lowest reasonable cost" as 0 is contrary to the intent of the RPS statute. If reducing REC requirements to 0 were a true means of implementing investment in Class III renewable energy, there would be no need for the Commission to evaluate the multiple purposes of the RPS statute. Ultimately, that New Hampshire's Alternative Compliance Payment (ACP) is lower than other states' REC prices means that utilities purchasing them are spending less than the market price of REC's and therefore saving money. The Commission's authority to adjust the Class III REC levels should not be interpreted to mean eliminating them.

The RPS statute does require the Commission review the RPS program in 2011, 2018 and 2025 and make recommendations to the Legislature on program changes "in light of the purposes of this chapter and with due consideration of the importance of stable long-term policies." RSA 362-F:5. At that time if the Commission believes the evidence suggests that Class III RECs should no longer be required- that is reduced to 0- the Commission can make the recommendation to the legislature at that time.

Respectfully submitted,

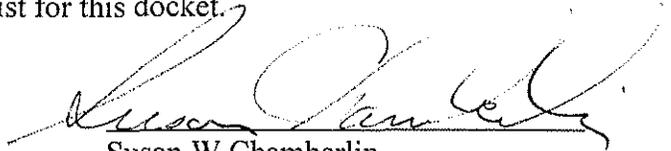


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Certificate of Service

I hereby certify that copies of these Comments were provided via electronic mail to the individuals included on the Commission's service list for this docket.

2/23/15
Date



Susan W Chamberlin