



Douglas L. Patch
dpatch@orr-reno.com
Direct Dial 603.223.9161
Direct Fax 603.223.9061
Admitted in NH and MA

February 21, 2013



HAND DELIVERED AND VIA EMAIL

Debra A. Howland, Executive Director & Secretary
New Hampshire Public Utilities Commission
21 South Fruit St., Suite 10
Concord, NH 03301-2429

***Re: DE 13-021 Electric Renewable Portfolio Standard, RSA 362-F:4, VI
Adjustment to Class III Renewable Portfolio Requirements***

Dear Ms. Howland:

This docket was opened on January 18, 2013 for the purpose of gathering data on reasonably expected potential annual output of available Class III eligible resources and data on demand from similar programs in other states. When it opened the docket the Commission cited its authority to adjust Class III renewable portfolio requirements under RSA 362-F:4, VI and the unprecedented levels of alternative compliance payments made during calendar year 2011. The Retail Energy Supply Association (“RESA”) petitioned to intervene in this docket and was granted intervention during the prehearing conference/hearing held on February 14, 2012. RESA submits these comments in response to the Commission’s statement during the February 14 hearing that written comments could be submitted up until February 21, 2013. During the hearing the Commission asked for comments on two questions: (1) the appropriateness of the Commission adjusting Class III (Existing Biomass/Methane) renewable portfolio requirements; and (2) whether it is appropriate to accelerate or delay by up to one year any given year’s incremental increase in Class I (new wind geothermal, hydrogen, ocean thermal, methane, biomass, solar thermal, etc.) RPS requirements – particularly the new Class I category of useful thermal energy. RESA provides the following comments on the first issue.

As noted in its petition to intervene in this docket RESA is a non-profit organization and trade association that represents the interests of its members in regulatory proceedings.

Unlike traditional electric utilities, RESA members sell electricity to retail customers under contracts or service agreements, rather than pursuant to tariffs. These contracts are generally for a fixed term and most often include a fixed price per kwh charge for the duration of the contract. This means that when an RPS requirement is modified resulting in increased renewable resource requirements, the additional costs to serve retail customers can not be passed through to customers by way of a tariff adjustment. Suppliers and their customers are bound by

their contract. RESA therefore submits that any acceleration or increase in the renewable resource requirements under the RPS will economically harm suppliers and frustrate both the buyer and seller with regard to their contract expectations, unless measures are included in the RPS to avoid such economic harm. A sound policy, which has been routinely adopted in New Hampshire and in other jurisdictions, is to exempt or "grandfather", contracts executed prior to the change in RPS requirements. To do otherwise, would, in RESA's opinion, violate the principle that a change in law or regulations should not have a retrospective effect or affect the sanctity of existing contracts. It would also have a negative effect on the market and could thus undermine customers' faith in the market. The NH RPS law recognizes the benefits of a grandfather clause through RSA 362-F:14, which says:

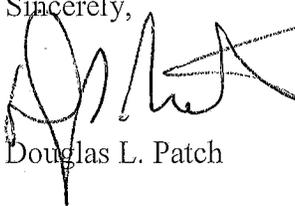
The increases in the annual purchase percentages in RSA 362-F:3 as compared to those in effect as of January 1, 2012 shall apply to the electrical load under any electrical power supply contracts for a term of years entered into by providers of electricity prior to or on July 1, 2012, upon the expiration of the term of any such contract. Providers of electricity shall inform the commission by July 1 of each year of all such contracts and their terms, including but not limited to the execution date and expiration date of the contract and the annual volume of electrical energy supplied.

RESA would therefore urge that any change which the Commission makes to the Class III RPS requirements should fully exempt sales made pursuant to existing customer contracts.

By contrast, any delay in the annual percentage increase or any other reduction in the RPS resource requirements would not necessitate an exemption, and RESA would have no general objection to such action.

Thank you for your attention to this matter. Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Patch", with a long horizontal stroke extending to the right.

Douglas L. Patch

DLP
Enclosures

cc: Service List in DE 13-021

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