

THE STATE OF NEW HAMPSHIRE

before the

PUBLIC UTILITIES COMMISSION

Public Service Company of New Hampshire

Docket No. DE 14-238

Objection of Public Service Company of New Hampshire

to

Motion to Compel of Granite State Hydropower Association, Inc.

Pursuant to Puc 203.07(e), Public Service Company of New Hampshire d/b/a Eversource Energy ("PSNH" or "Eversource" or the "Company") hereby objects to Granite State Hydropower Association's ("GSHA") Motion to Compel ("Motion") dated August 12, 2015.

In support of this Objection, PSNH states as follows:

1. The purpose of this proceeding is to review the "2015 Public Service Company of New Hampshire Restructuring and Rate Stabilization Agreement" (2015 Settlement Agreement) pursuant to the requirements of 2015 N.H. Laws, Chapter 221 (SB 221), "an act relative to electric rate reduction financing." See June 26, 2015 Supplemental Order of Notice in Docket No. DE 14-238 at 1. Such review is required to be performed in an "expedited proceeding." ("Before January 1, 2015, the commission shall commence and expedite a proceeding... ." 2014 N.H. Laws 310:2, amending RSA 369-B:3-a, I. "As part of an expedited proceeding, the commission shall review the 2015 settlement proposal... ." 2015 N.H. Laws 221:10, amending RSA 369-B:3-a, II.)

2. In accordance with the procedural schedule adopted by the Commission on July 14, 2015, PSNH submitted its prefiled testimony on July 6, 2015, and on July 29th GSHA propounded 55 numbered discovery questions to the Settling Parties (31 to PSNH, 12 to Settling Staff, and 12 to OCA). Pursuant to Puc 203.09 (g), on August 3, 2015, PSNH timely served GSHA with objections to a number of its 31 questions. A copy of PSNH's "Objections to Data Requests of Granite State Hydropower Association" is attached hereto as Attachment 1. GSHA and PSNH resolved some of Company's objections via good-faith discussions pursuant to Puc 203.09(i)(4). GSHA filed its Motion to Compel responses to the remaining questions.

3. Rather than repeat the substantive bases for PSNH's objections, the contents of PSNH's "Objections to Data Requests of Granite State Hydropower Association" are incorporated herein, and PSNH will only further address items included by GSHA in its Motion that were not addressed in its referenced "Objections."

4. The 2015 Settlement Agreement is a comprehensive settlement of myriad issues intended to resolve on-going litigation and complete the implementation of a long-standing state policy, as well as to resolve the issues identified in the 2014 law concerning PSNH's ownership of generating assets. Resolution of issues via settlement was an express desire of the Legislature. As set forth in 2014 N.H. Laws 310:1, the "Purpose" section of that law: "The purpose of allowing the public utilities commission to determine if divestiture of Public Service Company of New Hampshire's (PSNH) remaining generation assets is in the economic interests of PSNH's retail customers should be to . . . promote the settlement of outstanding issues involving stranded costs... ."

5. During the July 9, 2015 Prehearing Conference in this proceeding, GSHA indicated that it had limited objections to the 2015 Settlement Agreement; specifically, "these issues relate to the provisions in the Settlement Agreement regarding avoided costs paid to independent power producers." Prehearing Transcript, p. 33. With respect to the data requests that are the subject of GSHA's Motion to Compel, GSHA has stated that, "The information GSHA seeks all relates to demonstrating that PSNH's payments to IPPs under the terms of 1999 Settlement Agreement, and its proposal for payments under the 2015 Settlement Agreement, are inconsistent with applicable law that defines avoided costs." Motion at ¶7. Thus, GSHA is disputing the methodology for determining the "avoided cost" rates that must be paid to qualifying facilities ("QFs")¹ under the Public Utility Regulatory Policies Act ("PURPA") (absent a contract or some other enforceable obligation per 18 CFR 292.304) both presently (prior to any divestiture of PSNH's generating assets) and prospectively (after any divestiture). (PSNH notes that there is no need to include any discussion of the State "Limited Electrical Energy Producers Act" ["LEEPA"] found at RSA Chapter 362-A in this discussion, as mandated purchases under that law are no longer required. See RSA 362-A:3, II, :4.)

6. At the prehearing conference (Transcript, p. 33) GSHA noted that the Settling Parties' prefiled testimony did not address the 2015 Settlement Agreement's avoided cost provision. In several of its discovery questions (GSHA 1-1 to PSNH; GSHA 1-1 to Settling Staff; and GSHA 1-1 to OCA) GSHA asked "why?" – the answer is because the avoided cost provision of the 2015 Settlement Agreement simply continues the avoided cost methodology approved by the Commissioners in Docket DE 99-099. (See responses to GSHA 1-1 to PSNH and GSHA 1-1 to Settling Staff at Attachments 2 and 3, respectively).

7. GSHA and PSNH agree that the present methodology for determining such "avoided cost" payments to QFs when those QFs "put" their output to PSNH under PURPA was established by the 1999 PSNH Restructuring Settlement Agreement (the "1999 Settlement"). The 1999 Settlement was the subject of comprehensive review in Docket No. DE 99-099, and that Settlement, including the present

¹ "Qualifying facility" is defined by PURPA in 16 U.S. Code 796 (17) and by FERC in 18 CFR Part 292.

avoided cost standard, was approved by the Commissioners in Order No. 23,443 of April 19, 2000, and Order No. 23, 549 of September 8, 2000. GSHA and PSNH also agree that “the 1999 Settlement Agreement definition of avoided costs paid to IPPs is nearly identical to that found in the 2015 Settlement Agreement.” Motion at ¶17, internal footnote omitted.

8. Because the avoided cost standard in the 2015 Settlement Agreement is “nearly identical to that found in the” 1999 Settlement Agreement, unless and until PSNH divests its generating assets there is no reason to revisit the Commission’s prior approval of the present avoided cost standard. GSHA claims that even before divestiture the current avoided cost standard “is improper because it conflicts with New Hampshire case law” (Motion at ¶14), citing to *Appeal of Marmac*, a 1987 New Hampshire Supreme Court decision.² GSHA claims that *Marmac* impugns the current avoided cost standard. Necessarily, GSHA implies that the Commissioners erred or violated the law when they approved the 1999 Settlement Agreement in the two Orders approving that Settlement in 2000 – a full thirteen years after the Court decided *Marmac*. (PSNH notes that GSHA was a party-intervenor in Docket DE 99-099 and had full opportunity to raise this issue in that docket.) Therefore, for at least the time period until PSNH divests its generation and changes the paradigm under which it procures energy for its default service customers, GSHA’s challenge to the present avoided cost standard occurs fifteen years too late and should be rejected as untimely. See RSA chapter 541.

9. With respect to a future avoided cost standard, GSHA states that, “Post divestiture, assuming that PSNH procures its default service through a competitive bid process similar to the manner employed by other New Hampshire distribution companies, PSNH’s avoided cost rate paid to IPPs will be based upon the cost PSNH incurs to purchase energy to meet its default service obligations.” Motion at ¶14³. While PSNH does not agree that its avoided cost rate will be based upon the cost it incurs to purchase retail default energy, at this point the real issue is GSHA’s contention that the future default service procurement would be similar for all utilities. If, post-divestiture, all New Hampshire distribution companies will be procuring default service energy through similar bid processes in the same ISO-New England marketplace subject to the same Commission requirements and the same FERC avoided cost

²The only language in *Marmac* that could be read as somehow defining avoided costs, is made in the context of a reference to RSA 362-A:4, which had permitted the Commission to set the rates for purchases from QFs “from time to time” based upon the purchasing utility’s avoided costs. *Appeal of Marmac*, 130 N.H. 53, 55 (1987). That statute was subsequently amended in 1998 to provide, in part, that “No payments or rates shall be required by this section in locations where retail electric competition is certified to exist pursuant to RSA 38:36, unless such payments or rates are pursuant to an arrangement authorized by RSA 362-A:3.” *Marmac*’s continued viability is also put into question by its reliance on 18 CFR 292.401(a) of the FERC’s PURPA regulations (*Id.* at 57), a provision which FERC found to be obsolete and therefore deleted in 1992 in its Order No. 541, Final Rule and Policy Statement, 57 FR 21730-01. Accordingly, even if *Marmac* had applied at some point, the standard it related to was eliminated by operation of law prior to the Commission’s approval of the current avoided cost standard in 2000.

³ PSNH notes that GSHA has contended it would oppose any provision of the 2015 Settlement that set avoided costs at something other than a price based upon the cost incurred by the utility to purchase power. Recently, however, Briar Hydro Associates, a GSHA member, had recommended in another docket that QF power be purchased by utilities at a negotiated rate that provided a discount to the rate offered by a wholesale bidder. See February 11, 2015 Comments of Briar Hydro Associates in Docket No. IR 14-338 at 2-3. Accordingly, it is not at all clear what the actual rate calculation might be. Notably, in the referenced pleading, Briar Hydro suggested, “While not a part of this docket, the Commission may wish to consider what a utility’s avoided cost is under an all requirements contract.” *Id.*, fn.1. PSNH agrees with Briar that any consideration of avoided costs must be undertaken in an appropriate docket.

standard, then the avoided cost to be paid under PURPA to QFs by PURPA-jurisdictional utilities should be the same. (PSNH believes that Liberty Utilities, UNITIL, and the N.H. Electric Cooperative are also subject to PURPA's QF avoided cost standard. All three of those utilities have current tariff provisions setting their avoided cost for purchases pursuant to PURPA to be at the ISO-NE real time prices – the same standard as that in both the 1999 Settlement and the 2015 Settlement Agreement.)

10. If the Commission deems it necessary and appropriate to determine the proper avoided cost standard "post divestiture," this proceeding is not the proper forum to do so. The state's other utilities would have an interest in such a matter, as would any other current or potential QF, including wood-fired, solar, and wind generators.⁴ Ultimately, any avoided cost determination would become a "rule" as defined by RSA 541-A:1, XV, as it would amount to a "statement of general applicability adopted by an agency to [] implement, interpret, or make specific a statute enforced or administered by such agency... ." Rules must be made under the process set forth in RSA 541-A and Puc 205 – not as part of an "expedited" adjudicative proceeding.⁵

11. Contemporaneous with this pleading, PSNH is filing a request for rulemaking under Puc 205, proposing that the Commission should commence a rulemaking proceeding to determine the appropriate avoided cost standard for all PURPA-jurisdictional utilities in the state. Such a rulemaking would have to also include consideration of the existing avoided cost standard contained in Puc 903.02, that has the same avoided cost result as the provision contained in the 1999 and 2015 PSNH settlements; i.e., "avoided energy costs shall be based on the short-term avoided energy costs for the New Hampshire load zone in the wholesale electricity market administered by ISO New England, Inc." Puc 903.02 (i). The Commission is also referred to a February, 2015, study prepared by La Capra Associates captioned, "Public Utility Regulatory Policies Act (PURPA) Compliance Methods" referenced in PSNH's response to data request Q-GSHA-1-027 (attached hereto as Attachment 4) wherein La Capra found, "All states except Vermont use short term ISO-NE marginal energy prices (spot prices and not forward prices)" as the PURPA avoided cost standard. Should the Commission determine that it desires to investigate the generic PURPA avoided cost issue, PSNH's proposed rulemaking proceeding, and not this expedited adjudicative proceeding, is the proper place to do so.

12. PSNH notes that under the 2015 Settlement Agreement at Article III (C), "The Settling Parties agree not to oppose the opening of a generic docket or rulemaking upon petition by any Settling Party to consider the proper calculation of Avoided Costs under PURPA and LEEPA for all electric distribution companies in New Hampshire." Perhaps more significant is GSHA's stated position on whether the

⁴ A QF's ability to "put" its output to a utility under PURPA is not necessarily restricted by state boundaries. Therefore, QFs from nearby states may have an interest in establishing an avoided cost rate in New Hampshire that is higher than in other New England states.

⁵ Cf. *Marmac*, where the Court indicated a rulemaking was not necessary when the Commission was setting a rate, versus a methodology on how to establish that rate, and where the rate in question was applicable only to PSNH and not to other utilities in the State.

avoided cost issue should be taken up in the instant docket or elsewhere:

GSHA takes no position regarding whether the applicability, lawfulness, and meaning of the Avoided Costs definition in the Settlement Agreement should be addressed in the context of this proceeding, see, e.g., Order of Notice (Sept. 16, 2014), or whether it would be more appropriately addressed in a separate docket.

(Granite State Hydropower Association's Opening Scoping Memorandum, December 5, 2014, at p. 2.)

WHEREFORE, PSNH respectfully requests that this Commission deny the Motion to Compel filed by Granite State Hydropower Association, Inc.

Respectfully submitted this 21st day of August, 2015.

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE



By: _____

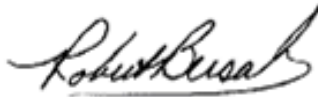
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CERTIFICATE OF SERVICE

I hereby certify that on August 21, 2015, I served an electronic copy of this filing with each person identified on the Commission's service list for this docket pursuant to Rule Puc 203.02(a).

A handwritten signature in black ink, appearing to read "Robert Bersak", is positioned above a horizontal line.

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ATTACHMENT 1

PSNH's "Objections to Data Requests of Granite State Hydropower Association"



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August 3, 2015
Via email and U.S. Mail

Susan S. Geiger, Esq.
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Re: NHPUC Docket No. DE 14-238
Objections to Data Requests of Granite State Hydropower Association

Dear Attorney Geiger:

On July 29, 2015, Granite State Hydropower Association ("GSHA") submitted discovery questions to PSNH in the above-captioned docket. Pursuant to Rule Puc 203.09(f), PSNH objects to GSHA's questions on both general and specific bases.

During the July 9 prehearing conference in this proceeding, you indicated that GSHA's interest in this proceeding was very limited, focused on the provisions in the Settlement Agreement regarding avoided costs paid to independent power producers pursuant to PURPA. As you are no doubt aware, the avoided cost provisions included in the Settlement Agreement are substantially identical to the same provision included in the earlier 1999 PSNH Restructuring Agreement, which was approved by the Commission in Docket No. DE 99-099. GSHA's dispute regarding the avoided cost methodology is not limited to the post-divestiture period; instead, you stated that it is GSHA's position that the current Commission-approved avoided cost standard does not comply with the law. This is peculiar in light of the fact that the Commission approved the existing standard during the PSNH Restructuring proceeding in Order No. 23,443.

The purpose of including the avoided cost provision in the new Settlement Agreement was to continue the status quo until the Commission determines that some other methodology should be implemented. But, implementation of a new avoided cost standard is a generic issue affecting all PURPA-jurisdictional utilities in the State, not just Eversource, as all the State's utilities will be operating similarly going forward.

Moreover, the avoided cost provision contained in both the 1999 PSNH Restructuring Settlement and the present Settlement Agreement is consistent with the avoided cost standard contained in the Commission's Rules at Puc 903.02. A Commission determination

regarding an appropriate avoided cost standard that changes existing regulations must be considered in a properly-noticed rulemaking proceeding, not an adjudicative proceeding per RSA Chapter 541-A.

GSHA's intention to litigate the generic avoided cost issue in the midst of this settlement proceeding is misplaced, and inapposite to the statutory requirement that this docket be an "expedited proceeding." RSA 369-B:3-a, as amended by 2015 N.H. Laws, Ch. 221. Changing the existing avoided standard is beyond the scope of this proceeding as set forth in the Commission's June 26th Supplemental Order of Notice.

For these reasons, PSNH objects to all of the questions asked of it by GSHA in the July 29, 2015 data request submission. PSNH would not object to the initiation of a rulemaking docket to determine the appropriate avoided cost standard to comply with PURPA; but PSNH does object to GSHA's attempt to hijack this proceeding to deal with this generic issue.

In addition to the general objection set forth above, PSNH also objects to the following identified questions for the specific reasons set forth for each:

GSHA 1-3. Please identify the amount of output (kWh) that Eversource purchased for each hour beginning January 1, 2015 to June 30, 2015 from each of the IPPs listed in response to data request GSHA 1-2.

PSNH objects to Q-GSHA-1-3 based upon relevance and materiality. The amount of output purchased by PSNH from qualifying facilities under PURPA has no relevance to the proper avoided cost standard under FERC's PURPA regulations at 18 CFR Part 292. Moreover, the question will not reveal information material to this proceeding. *See* RSA 541-A:33, "the presiding officer may exclude irrelevant, immaterial or unduly repetitious evidence."

GSHA 1-3.a. Please state your understanding of Eversource's current obligation to purchase IPP output pursuant to LEEPA (NH RSA 362-A) and PURPA (Public Utility Regulatory Policies Act of 1978 as amended, generally 16 U.S. Code §2601).

PSNH objects to Q-GSHA-1-3a because it seeks a legal opinion and not facts within the possession or control of PSNH. *See* Order 25,646 dated April 8, 2014, Docket DE 11-250: "We review all testimony, but we rely upon the parties' briefs and our own analysis to reach the proper legal conclusions. Therefore, we will generally not compel lay witnesses to respond to discovery questions that seek legal interpretations."

GSHA 1-4. Please state whether Eversource took legal title to the output purchased from each IPP identified in response to data request GSHA 1-2. With regard to future purchases of IPP output, will Eversource continue to take title to such output? If not, please explain why.

PSNH objects to Q-GSHA-1-4 based upon relevance and materiality. Whether or not PSNH took legal title to the output purchased from qualifying facilities pursuant to PURPA has no relevance to the proper avoided cost standard under FERC's PURPA regulations at 18 CFR Part 292. *See* RSA 541-A:33, "the presiding officer may exclude irrelevant, immaterial or unduly repetitious evidence." PSNH objects to the second question contained in Q-GSHA-1-4 as it requires speculation. Moreover, the question will not reveal information material to this proceeding. *See* Order No. 25,718 dated September 17, 2014 in Docket No. DE 11-250, upholding objection based upon question requiring speculation.

GSHA 1-6. Please state the amount (kWh) of Default Service (also known as Energy Service) provided by Eversource to each of its rate categories (LG, GV, G, R, and OL) for each hour from January 1, 2015 to June 30, 2015.

PSNH objects to Q-GSHA-1-6 based upon relevance and materiality. The amount of default service provided to retail customer classes has no relevance to the proper avoided cost standard under FERC's PURPA regulations at 18 CFR Part 292. Moreover, the question will not reveal information material to this proceeding. *See* RSA 541-A:33, "the presiding officer may exclude irrelevant, immaterial or unduly repetitious evidence."

GSHA 1-7. Please state the amount of energy (kWh) generated by each Eversource owned generating asset for each hour from January 1, 2015 to June 30, 2015. For purposes of this question, please interpret "Eversource generating asset" to mean each of the Eversource generating category (i.e. hydro, coal, biomass and peaking turbines).

PSNH objects to Q-GSHA-1-7 based upon relevance and materiality. The amount of energy generated by PSNH's generating assets has no relevance to the proper avoided cost standard under FERC's PURPA regulations at 18 CFR Part 292. Moreover, the question will not reveal information material to this proceeding. *See* RSA 541-A:33, "the presiding officer may exclude irrelevant, immaterial or unduly repetitious evidence."

GSHA 1-8. The following questions relate to Eversource's purchases from ISO-NE for the period January 1, 2015 through June 30, 2015.

A. Please identify those hours from January 1, 2015 to June 30, 2015 when Eversource purchased energy from ISO-NE.

PSNH objects to Q-GSHA-1-8.A based upon relevance and materiality. The hours that PSNH purchased power from ISO-NE has no relevance to the proper avoided cost standard under FERC's PURPA regulations at 18 CFR Part 292. Moreover, the question will not reveal information material to this proceeding. *See* RSA 541-A:33, "the presiding officer may exclude irrelevant, immaterial or unduly repetitious evidence."

- B. Please identify the quantity of energy (kWh) Eversource purchased from the ISO-NE day ahead market during those hours identified in response to data request GSHA 1-8.A.**

PSNH objects to Q-GSHA-1-8.B based upon relevance and materiality. The quantity of energy PSNH purchased from the ISO-NE day-ahead market has no relevance to the proper avoided cost standard under FERC's PURPA regulations at 18 CFR Part 292. Moreover, the question will not reveal information material to this proceeding. *See* RSA 541-A:33, "the presiding officer may exclude irrelevant, immaterial or unduly repetitious evidence."

- C. Please identify the quantity of energy (kWh) Eversource purchased from the ISO-NE real time market during those hours identified in response to data request GSHA 1-8.A.**

PSNH objects to Q-GSHA-1-8.C based upon relevance and materiality. The quantity of energy PSNH purchased from the ISO-NE real-time market has no relevance to the proper avoided cost standard under FERC's PURPA regulations at 18 CFR Part 292. Moreover, the question will not reveal information material to this proceeding. *See* RSA 541-A:33, "the presiding officer may exclude irrelevant, immaterial or unduly repetitious evidence."

- D. Please provide the energy rate (cents/kWh) for the energy Eversource purchased from the ISO-NE day ahead market during those hours identified in response to data request GSHA 1-8.A.**

PSNH objects to Q-GSHA-1-8.D because the information sought, i.e., ISO-NE day-ahead market prices, is publically available to the requestor. *See* Order 25,646 dated April 8, 2014, Docket DE 11-250: "The Commission weighs 'the effort needed to gather [the requested information], the availability of the information from other sources, and other relevant criteria.' *Public Service Co. of N.H.*, Order 25, 595 at 2-3 (Nov. 15, 2013); *City of Nashua*, Order No. 24,485 at 4."

- E. Please provide the energy rate (cents/kWh) for the energy Eversource purchased from the ISO-NE real time market during those hours identified in response to data request GSHA 1-8.A.**

PSNH objects to Q-GSHA-1-8.E because the information sought, i.e., ISO-NE real-time market prices, is publically available to the requestor. *See* Order 25,646 dated April 8, 2014, Docket DE 11-250: "The Commission weighs 'the effort needed to gather [the requested information], the availability of the information from other sources, and other relevant criteria.' *Public Service Co. of N.H.*, Order 25, 595 at 2-3 (Nov. 15, 2013); *City of Nashua*, Order No. 24,485 at 4."

GSHA 1-9. The following questions relate to Eversource's sales into ISO-NE during the period January 1, 2015 through June 30, 2015.

- A. Please identify those hours from January 1, 2015 to June 30, 2015 when Eversource sold energy into ISO-NE.**

PSNH objects to Q-GSHA-1-9.A based upon relevance and materiality. The hours when PSNH sold energy into the ISO-NE market has no relevance to the proper avoided cost standard under FERC's PURPA regulations at 18 CFR Part 292. Moreover, the question will not reveal information material to this proceeding. *See* RSA 541-A:33, "the presiding officer may exclude irrelevant, immaterial or unduly repetitious evidence."

- B. Please identify the quantity of energy (kWh) Eversource sold into the ISO-NE day ahead market for those hours identified in response to data request GSHA 1-9.A.**

PSNH objects to Q-GSHA-1-9.B based upon relevance and materiality. The quantity of energy PSNH purchased from the ISO-NE real-time market has no relevance to the proper avoided cost standard under FERC's PURPA regulations at 18 CFR Part 292. Moreover, the question will not reveal information material to this proceeding. *See* RSA 541-A:33, "the presiding officer may exclude irrelevant, immaterial or unduly repetitious evidence."

- C. Please identify the quantity of energy (kWh) Eversource sold into the ISO-NE real time market for those hours identified in response to data request GSHA 1-9.A.**

PSNH objects to Q-GSHA-1-9.C based upon relevance and materiality. The quantity of energy PSNH sold into the ISO-NE real-time market has no relevance to the proper avoided cost standard under FERC's PURPA regulations at 18 CFR Part 292. Moreover, the question will not reveal information material to this proceeding. *See* RSA 541-A:33, "the presiding officer may exclude irrelevant, immaterial or unduly repetitious evidence."

- D. Please provide the energy rate (cents/kWh) for the energy sold into the ISO-NE day ahead market for those hours identified in response to data request GSHA 1-9.A.**

PSNH objects to Q-GSHA-1-9.D because the information sought, i.e., ISO-NE day-ahead market prices, is publically available to the requestor. *See* Order 25,646

dated April 8, 2014, Docket DE 11-250: “The Commission weighs ‘the effort needed to gather [the requested information], the availability of the information from other sources, and other relevant criteria.’ *Public Service Co. of N.H.*, Order 25, 595 at 2-3 (Nov. 15, 2013); *City of Nashua*, Order No. 24,485 at 4.”

E. Please provide the energy rate (cents/kWh) for the energy sold into the ISO-NE real time market for those hours identified in response to data request GSHA 1-9.A.

PSNH objects to Q-GSHA-1-9.E because the information sought, i.e., ISO-NE real-time market prices, is publically available to the requestor. *See* Order 25,646 dated April 8, 2014, Docket DE 11-250: “The Commission weighs ‘the effort needed to gather [the requested information], the availability of the information from other sources, and other relevant criteria.’ *Public Service Co. of N.H.*, Order 25, 595 at 2-3 (Nov. 15, 2013); *City of Nashua*, Order No. 24,485 at 4.”

GSHA 1-10. Please provide the Default Service Energy Rate (cents/kWh) charged to Eversource customers in each rate category (LG, GV, G, R, and OL) for each hour from January 1, 2015 to June 30, 2015.

PSNH objects to Q-GSHA-1-10 based upon relevance and materiality. The company’s retail default service rate has no relevance to the proper avoided cost standard under FERC’s PURPA regulations at 18 CFR Part 292. Moreover, the question will not reveal information material to this proceeding. *See* RSA 541-A:33, “the presiding officer may exclude irrelevant, immaterial or unduly repetitious evidence.”

GSHA 1-12. Please identify the major non energy cost categories that are included in Eversource’s Default Energy Service Rate.

PSNH objects to Q-GSHA-1-12 based upon relevance and materiality. The major non-cost components of the Company’s retail default service rate have no relevance to the proper avoided cost standard under FERC’s PURPA regulations at 18 CFR Part 292. Moreover, the question will not reveal information material to this proceeding. *See* RSA 541-A:33, “the presiding officer may exclude irrelevant, immaterial or unduly repetitious evidence.”

GSHA 1-14. Under Section III. B. of the Agreement, no later than six months after final financial closing resulting from divestiture of Eversource’s generating assets, Eversource will be required to transition to a competitive procurement process for Default Service. If Eversource divests only some but not all of its generating assets, will the competitive procurement process for Default Service commence after final financial closing resulting from the partial divestiture? Please explain your response.

PSNH objects to Q-GSHA-1-14 as it requires speculation. *See* Order No. 25,718 dated September 17, 2014 in Docket No. DE 11-250, upholding objection based upon question requiring speculation.

GSHA 1-15. Will the suppliers selected to provide Eversource's Default Service under the competitive procurement process supply all of Eversource's Default Service energy needs? Please explain your response.

PSNH objects to Q-GSHA-1-15 as it requires speculation. *See* Order No. 25,718 dated September 17, 2014 in Docket No. DE 11-250, upholding objection based upon question requiring speculation.

GSHA 1-16. Under the contemplated competitive procurement process for Default Service will Eversource purchase any energy from ISO-NE to meet Default Service needs? Please explain your response.

PSNH objects to Q-GSHA-1-16 as it requires speculation, because the competitive process to be utilized to obtain default service shall be consistent with the process determined by the Commission in its Docket No. IR 14-338, "Review of Default Service Procurement Processes for Electric Distribution Utilities," as may subsequently be modified by the Commission, a docket that has not yet been completed. *See* Order No. 25,718 dated September 17, 2014 in Docket No. DE 11-250, upholding objection based upon question requiring speculation.

GSHA 1-17. Under the contemplated competitive procurement process will the rates set forth in the winning competitive bid(s), subject to NHPUC review, be used to establish the rates to be charged by Eversource to Default Service customers? Please explain your response.

PSNH objects to Q-GSHA-1-17 as it requires speculation, because the competitive process to be utilized to obtain default service shall be consistent with the process determined by the Commission in its Docket No. IR 14-338, "Review of Default Service Procurement Processes for Electric Distribution Utilities," as may subsequently be modified by the Commission, a docket that has not yet been completed. *See* Order No. 25,718 dated September 17, 2014 in Docket No. DE 11-250, upholding objection based upon question requiring speculation.

GSHA 1-19. For the period January 1, 2015 – June 30, 2015 please identify the cumulative dollar value difference between the ISO-NE NH day ahead LMP and the real time LMP.

PSNH objects to Q-GSHA-1-19 because the information sought, i.e., the cumulative dollar value difference between the ISO-NE NH day ahead LMP and the real time LMP is publically

available to the requestor, and the requested calculation has not been performed by PSNH. See Order 25,646 dated April 8, 2014, Docket DE 11-250: "The Commission weighs 'the effort needed to gather [the requested information], the availability of the information from other sources, and other relevant criteria.' *Public Service Co. of N.H.*, Order 25, 595 at 2-3 (Nov. 15, 2013); *City of Nashua*, Order No. 24,485 at 4."

GSHA 1-20. For the period January 1, 2015 – June 30, 2015, please identify the percent value for the cumulative difference between the ISO-NE NH day ahead LMP and the real time LMP.

PSNH objects to Q-GSHA-1-20 because the information sought, i.e., the percent value for the cumulative difference between the ISO-NE NH day ahead LMP and the real time LMP is publically available to the requestor, and the requested calculation has not been performed by PSNH. See Order 25,646 dated April 8, 2014, Docket DE 11-250: "The Commission weighs 'the effort needed to gather [the requested information], the availability of the information from other sources, and other relevant criteria.' *Public Service Co. of N.H.*, Order 25, 595 at 2-3 (Nov. 15, 2013); *City of Nashua*, Order No. 24,485 at 4."

GSHA 1-21. Under the contemplated competitive procurement process for Default Service post divestiture, please state whether Eversource be obligated to purchase IPP output pursuant to PURPA and LEEPA as presently enacted.

PSNH objects to Q-GSHA-1-21 because it seeks a legal opinion and not facts within the possession or control of PSNH. See Order 25,646 dated April 8, 2014, Docket DE 11-250: "We review all testimony, but we rely upon the parties' briefs and our own analysis to reach the proper legal conclusions. Therefore, we will generally not compel lay witnesses to respond to discovery questions that seek legal interpretations."

GSHA 1-22. Assuming Eversource purchases such IPP output, will Eversource take title to IPP output that is purchased? If not, why not?

PSNH objects to Q-GSHA-1-22 as it requires speculation, because the competitive process to be utilized to obtain default service shall be consistent with the process determined by the Commission in its Docket No. IR 14-338, "Review of Default Service Procurement Processes for Electric Distribution Utilities," as may subsequently be modified by the Commission, a docket that has not yet been completed. See Order No. 25,718 dated September 17, 2014 in Docket No. DE 11-250, upholding objection based upon question requiring speculation.

GSHA 1-25. For the period January 1, 2015 – June 30, 2015, what percentage of PSNH's power purchases were from the ISO-NE day ahead market?

PSNH objects to Q-GSHA-1-25 based upon relevance and materiality. The percentage of

energy PSNH purchased from the ISO-NE day-ahead market has no relevance to the proper avoided cost standard under FERC's PURPA regulations at 18 CFR Part 292. Moreover, the question will not reveal information material to this proceeding. See RSA 541-A:33, "the presiding officer may exclude irrelevant, immaterial or unduly repetitious evidence."

GSHA 1-26. For the period January 1, 2015 – June 30, 2015, what percentage of PSNH's power purchases were from the ISO-NE real time market?

PSNH objects to Q-GSHA-1-26 based upon relevance and materiality. The percentage of energy PSNH purchased power from the ISO-NE real-time market has no relevance to the proper avoided cost standard under FERC's PURPA regulations at 18 CFR Part 292. Moreover, the question will not reveal information material to this proceeding. See RSA 541-A:33, "the presiding officer may exclude irrelevant, immaterial or unduly repetitious evidence."

GSHA 1-29. The following question relate to the June 10, 2015 Restructuring and Rate Stabilization Agreement ("Agreement") at page 11, lines 294-300 and following on page 12 lines 301-302.

- A. Does PSNH maintain that default service should be procured from a wholesale supplier on a full requirements, load following basis for the entire default service load for the duration of a particular rate term?**
- B. If so, is PSNH's avoided cost (as defined at 18 C.F.R. Part 292, Section 101 (b) (6)) under such default service procurement equal to the "market price for sales into the ISO-NE power exchange" adjusted as noted in the Agreement? Please explain.**
- C. If your answer to data request 1-29.B. is no, please explain the basis for PSNH's avoided cost (as defined at 18 C.F.R. Part 292, Section 101 (b) (6)) under the noted default service procurement.**

PSNH objects to Q-GSHA-1-29 as it requires speculation, because the competitive process to be utilized to obtain default service shall be consistent with the process determined by the Commission in its Docket No. IR 14-338, "Review of Default Service Procurement Processes for Electric Distribution Utilities," as may subsequently be modified by the Commission, a docket that has not yet been completed. See Order No. 25,718 dated September 17, 2014 in Docket No. DE 11-250, upholding objection based upon question requiring speculation. Moreover, PSNH objects to subpart 1-29.A as that question is beyond the scope of this proceeding and instead should be addressed in Docket No. IR 14-338. As a result of these objections, no responses are necessary under subparts 1.29.B or 1.29.C.

Thank you for your consideration of these objections. If you have any questions, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert A. Bersak". The signature is fluid and cursive, with a prominent initial "R" and a long, sweeping underline.

Robert A. Bersak
Chief Regulatory Counsel

cc: Service List, per Rule Puc 203.09(d), via email.

ATTACHMENT 2

Q-GSHA 1-1 to PSNH

Public Service Company of New Hampshire
Docket No. DE 14-238

Date Request Received: 07/29/2015

Request No. GSHA 1-001

Request from: Granite State Hydropower Association

Date of Response: 08/12/2015

Page 1 of 1

Witness: Eric H. Chung

Request:

Please explain why Eversource's July 6, 2015 prefiled testimony in Docket DE 14-238 submitted in support of the 2015 Public Service Company of New Hampshire Restructuring and Rate Stabilization Agreement ("Agreement") does not address the following Agreement provisions: III. C. Avoided Costs for IPPs; and VI. B. Purchases from Qualifying Facilities ("QFs"), Independent Power Producers ("IPPs") and Power Purchase Adjustments.

Response:

PSNH has objected to this question. Notwithstanding, and without waiving that objection, PSNH provides the following response:

The avoided cost provision identified in this question is a carry-over from the existing 1999 PSNH Restructuring Agreement approved by the Commission in Order No. 23,443 in Docket No. DE 99-099. This provision was carried over to the 2015 Settlement Agreement to ensure continuity of this long-standing practice until such time that the Commission in a generic or rulemaking docket changes this PURPA standard for the state's PURPA-jurisdictional utilities, and modifies the avoided cost standard in the PUC 900 rules accordingly. As this provision merely continues the status quo as previously approved by the Commission in Docket No. DE 99-099, no supporting testimony was deemed to be necessary.

ATTACHMENT 3

Q-GSHA 1-1 to Settling Staff

**DE 14-238 Determination Regarding PSNH Generation Assets
Settling Staff Responses to Granite State Hydropower Association Set 1**

Date Request Received: 7/29/2015
Request Number: GSHA 1-1
Witness: Thomas C. Frantz

Date of Response: 8/6/2015
Page 1 of 2

Request:

GSHA 1-1. Please explain why your prefiled testimony dated July 17, 2015 submitted in this docket does not address the following provisions of the 2015 Public Service Company of New Hampshire Restructuring and Rate Stabilization Agreement: (“Settlement Agreement”) III. C. Avoided Costs for IPPs; and VI. B. Purchases from Qualifying Facilities (“QFs”), Independent Power Producers (“IPPs”) and Power Purchase Adjustments.

Response:

I did not address Avoided Cost for IPPs because section III. C. of the Settlement Agreement merely continues the treatment granted IPPs in the 1999 Agreement to Settle PSNH Restructuring (1999 Settlement).

I did not address PSNH purchases from QFs and IPPs because section VI. B. of the Settlement Agreement simply continues PSNH’s current practice regarding including the net over market amount of such purchases in its stranded costs charges.

The Settlement Agreement III. C. provides:

“Unless otherwise found by the Commission or other appropriate authority, PSNH’s responsibilities and avoided cost rates for purchases of IPP power pursuant to PURPA and LEEPA shall be equal to the market price for sales into the ISO-NE power exchange, adjusted for line losses, wheeling costs, and administrative costs. This Agreement is not intended to impair existing rate orders or contracts. Nothing in this Agreement shall be construed as limiting the Commission’s authority with respect to calculating avoided costs. The Settling Parties agree not to oppose the opening of a generic docket or rulemaking upon petition by any Settling Party to consider the proper calculation of Avoided Costs under PURPA and LEEPA for all electric distribution companies in New Hampshire.” Settlement Agreement lines 304-312

For comparison, the 1999 Settlement, Aug. 2, 1999, revised and conformed in compliance with Order No. 23,549 at lines 1045-1052 provides as follows:

“PSNH’s responsibilities and avoided cost rates on and after Competition Day for short-term purchases of IPP power pursuant to the federal Public Utility Regulatory Policies Act and the New Hampshire Limited Electrical Energy Producers Act shall be equal to the market price for

sales into the ISO-New England power exchange, adjusted for line losses, wheeling costs, and administrative costs. This Agreement is not intended to impair existing rate orders or contracts.” The Settlement Agreement continues the 1999 Settlement treatment of avoided costs for IPPs and provides for a generic docket or rulemaking in the event any interested party wishes to have the Commission consider a change in the current treatment of avoided costs. The Settling Parties have agreed not to oppose such a proceeding at the Commission, and believe that such an inquiry should proceed separately from consideration of the Settlement Agreement with a broader set of stakeholders including the other electric distribution companies which also have obligations under PURPA and LEEPA.

It is also worth noting that current Commission rules on net metering contain a similar approach to determining avoided energy costs:

- (i) Unless an electric distribution utility elects otherwise as provided in paragraph (k) below, and except as may be provided otherwise pursuant paragraph (p) below, the commission shall annually determine the rates for utility avoided costs for energy and capacity consistent with the requirements of the Public Utilities Regulatory Policy Act of 1978 (PURPA)(16 USC§ 824a-3 and 18 CFR § 29304) and as set forth below;
- (2) The rates for avoided energy costs shall be based on the short-term avoided energy costs for the New Hampshire load zone in the wholesale electricity market administered by ISO-New England, Inc., consisting of the hourly real time locational marginal price (LMP) of electricity plus generation related ancillary service charges, all adjusted for the average line loss in New Hampshire between the wholesale metering point and the retail metering point;

Puc 903.02 (i)

ATTACHMENT 4

Q-GSHA-1-027 to PSNH

Public Service Company of New Hampshire
Docket No. DE 14-238

Date Request Received: 07/29/2015

Request No. GSHA 1-027

Request from: Granite State Hydropower Association

Date of Response: 08/12/2015

Page 1 of 2

Witness: Eric H. Chung

Request:

The following questions relate to the June 10, 2015 Restructuring and Rate Stabilization Agreement ("Agreement") at page 12, lines 305-307:

- A. Does the phrase "avoided cost" used in line 305 mean "avoided costs" as defined at 18 C.F.R. Part 292, Section 101 (b) (6)? If not, please provide its definition and explain how it is consistent with the above-referenced definition.
- B. Did PSNH conduct, or have conducted on its behalf or for its use, any report, study, evaluation, or analysis, or make or have made any determination that its avoided cost (as defined at 18 C.F.R. Part 292, Section 101 (b) (6)) is "equal to the market price for sales into the ISO-NE power exchange" adjusted as noted in the Agreement?
- C. If the response to 1-27 B. is affirmative, please provide copies of all such reports, studies, evaluations, analyses, or determinations and all related work papers, data and other supporting documents.
- D. If no such reports, studies, evaluations, or analyses exist, please explain how PSNH determined that its avoided cost (as defined at 18 C.F.R. Part 292, Section 101 (b) (6)) prior to the divestiture of its generation assets is "equal to the market price for sales into the ISO-NE power exchange" adjusted as noted in the Agreement?

Response:

PSNH has objected to this question. Notwithstanding, and without waiving that objection, PSNH provides the following response:

A. Yes, as further clarified by FERC in 18 CFR 292.304.

B. Yes.

C. Please see the determination in the Commission's Order No. 23,443 discussing the 1999 Settlement Agreement, where the Commission approved the referenced standard. Re Public Service Co. of New Hampshire, 200 P.U.R.4th 373 (Apr. 19. 2000)

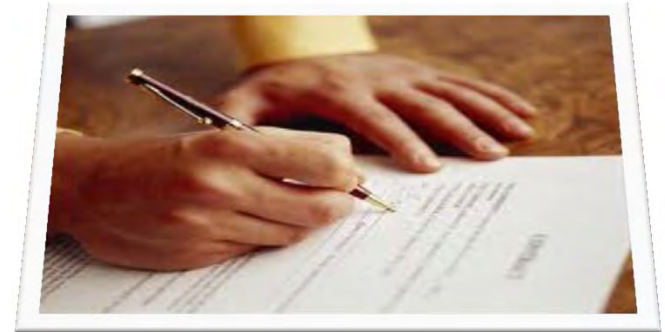
D. In addition to the matter referenced in response to subpart C, PSNH was aware of the report from La Capra Associates dated February 19, 2015, entitled, "PUBLIC UTILITY REGULATORY POLICIES ACT (PURPA) COMPLIANCE METHODS" which confirms that the avoided cost methodology used by PSNH since the adoption of the 1999 PSNH Restructuring Settlement and continued in the 2015 Settlement Agreement is consistent avoided cost setting practice throughout New England. Note La Capra's finding

on page 12: "All states except Vermont use short term ISO-NE marginal energy prices (spot prices and not forward prices)."

http://psb.vermont.gov/sites/psb/files/rules/proposed/Rule4100/GMP_PURPA_Presentation_2_19_2015.pdf

La Capra Associates

PUBLIC UTILITY REGULATORY POLICIES ACT (PURPA) COMPLIANCE METHODS



Presented by: **John Athas & Mary Neal**
La Capra Associates, Inc.

Presented to: **Green Mountain Power**

February 19, 2015

Topics Covered

- I. Introduction to PURPA**
- II. FERC Response to Issues Regarding PURPA & Market Access**
- III. New England State Rules**
- IV. Other RTO Regions**





I. INTRODUCTION TO PURPA

- ☐ **PURPA Goals**
- ☐ **PURPA Requirements**
- ☐ **Energy Policy Act of 2005**

Source: Carolyn Elefant, “A Survey of Avoided Cost Ratemaking Methodologies Under the Public Utilities Regulatory Policies Act (PURPA)”, March 2014,
<http://www.narucmeetings.org/Presentations/25%20PURPA%20Avoided%20Cost%20Calculation%20Differences%20Across%20States-Carolyn%20Elefant.pdf>

PURPA Goals

- **Encourage alternative energy/distributed generation development in order to conserve energy and increase utility efficiency**
- **Grant qualified facility (QF) status to eligible cogeneration and small renewable generating facilities**
 - Utilities obligated to purchase power from facilities with QF status
- **Maintain equitable rates for consumers**
 - Electric rates unaffected by QF purchase



PURPA Requirements

- Utilities must purchase power from QFs at avoided cost based rates
- FERC defines avoided cost as “the incremental cost to the electric utility of electric energy or capacity or both which, but for the purchase from the QF or QFs, such utility would generate itself or purchase from another source.”
§CFR 292.101(b)(6)
- Legal standards
 - Just, reasonable and in the public interest
 - Non-discrimination among co-generators or small power producers

Energy Policy Act of 2005 amends PURPA's must purchase obligation and avoided cost

- **Utilities may terminate (with FERC permission) mandatory purchase obligation if QFs have non-discriminatory access to competitive markets**
- **FERC Order 688 determined that:**
 - **ISO-NE, NYISO, PJM, and MISO meet statutory criteria for competitive markets**
 - **QFs of more than 20 MW assumed to have non-discriminatory access to at least one of these competitive markets**
- **For QFs still entitled to sell power at avoided cost in places with Day 2 Markets, the avoided costs are most often based on market prices**



II. FERC RESPONSE TO ISSUES REGARDING PURPA & MARKET ACCESS

- ❑ **Small QFs**
- ❑ **Congestion Issues**
- ❑ **Treatment of RECs**

FERC protects QF status for facilities under 20 MW

- **FERC has shown reluctance to eliminate mandatory purchase obligation from QFs smaller than 20 MW, even in Day 2 Market Environments**
 - **FERC granted BED relief from this requirement in the case of Winooski One (there may also be one additional recent case) – these exemptions are rare and on a case by case basis.**
- **In 2010, FERC denied PSNH's request to eliminate the mandatory purchase obligation for QFs between 5 and 20 MW**
- **In 2013, FERC denied PPL Electric's request to eliminate the mandatory purchase obligation for the planned 18.1 MW Souderton cogeneration plant**
 - **FERC stated PPL Electric's application lacked a necessary QF-specific analysis demonstrating the QF has non-discriminatory market access**

FERC considers congestion for QF status termination

- **Some utilities have also been denied request to terminate mandatory purchase obligation due to market congestion**
- **As an example, in 2008, Southwestern Public Service (SPS) Company was denied its request to eliminate mandatory purchase obligation for QFs larger than 20 MW**
 - **SPS is a member of SPP**
 - **JD Wind, a QF owner, provided evidence of curtailment due to transmission constraints and the lack of ability to secure a third-party purchase agreement for its JD Wind No. 4 project**
 - **Only one QF in SPS had an OASIS reservation and only for a small fraction of its output**

FERC excludes RECs from PURPA statute

- **FERC has stated that contracts for the sale of QF energy and capacity pursuant to PURPA do not automatically include RECs**
- **RECs may be transferred to the utility from the QFs per a separate contractual provision or through state law, but not PURPA**
- **REC policies vary by state**

III. NEW ENGLAND STATE RULES

- ☐ New Hampshire
- ☐ Connecticut
- ☐ Rhode Island
- ☐ Maine
- ☐ Massachusetts





Summary of New England States

Common Elements

- All states except Vermont use short term ISO-NE marginal energy prices (spot prices and not forward prices)
 - Allco Renewable Energy petitioned FERC for enforcement action against MA DPU for only allowing short term avoided cost rates and not long-term contract rates; FERC did not bring such an enforcement action
- Most States pay FCM value as well as energy
- States allow long term contracting at negotiated rates
- All States adjust for losses
- Most states try to have some connection between their QF rate and net metering rate design
- Most states have tiers by size of QF giving slight differences in rate structure

Distinctions among States

- Varies among states on Nodal versus Zonal and Day Ahead or Real time markets
- NH and Maine adjust their payments to QFs to account for administrative costs



Summary of New England States (cont.)

	MA	CT	ME	RI	NH	VT
Mechanism	Statute	Utility Tariff	PUC Rules	Utility Tariff	Utility Tariff	PSB-Approved Rates Statewide
Energy Price	Equal to payments received by utility from ISO-NE	RT LMP at generator node or Zone	RT LMP at generator node or negotiated between utility and QF	Standard Offer Price or Hourly clearing prices – RT or DA not specified	Zonal RT LMP or contract	Based on long-term forecast from consultant
Capacity Price	Included if recognized by NEPOOL or ISO-NE	Included in long-term contract	Negotiated between utility and QF	Included if recognized by NEPOOL or ISO-NE	FCM Price less PER	Based on long-term forecast from consultant
Losses	Each company files line loss factors with DPU	No adjustments if 69kV or more; fixed peak and off-peak % for <69kV	Commission may consider losses	No line loss adjustment specified in tariff	Line losses wholesale to retail meter point	Adjusted for Local T & D
RECs	REC transfer not covered by statute	Included if long-term contract under tariff or if contract includes it	Retained by QF	REC transfer not specified in tariff	Retained by QF	Retained by QF
Frequency of price updates	Short-term Prices	Short-term Prices	Filed by QF annually	Short-term prices; annual reconciliation	Short-term Prices	Annually per Rule 4.100
Length of contract	N/A	No specified contract length	No specified contract length	N/A	One 20-year contract; could be others	5, 10, 15, 20, or 30-year options

IV. Other RTO Regions

- ☐ **NYISO**
 - ☐ **Niagara Mohawk**
 - ☐ **Con Ed**
- ☐ **PJM**
 - ☐ **Public Service Electric & Gas**
 - ☐ **Virginia Electric and Power**
 - ☐ **Baltimore Gas and Electric**
- ☐ **MISO**
 - ☐ **Entergy**



Summary of Other RTO Regions

Common Elements

- All states used short term marginal energy prices, varying between RT and DA
- Most States pay capacity value as well as energy
- States allow long term contracting at negotiated rates
- All States adjust for losses
- Some states adjust their payments to QF to account for administrative costs
- Most states have tiers by size of QF giving slight differences in rate structure

Distinctions from New England

- Con Ed has QFs over 1MW provide schedule of output for Day Ahead Market
- Most states do not have a direct connection between their QF rate and net metering rate design

Summary of Other RTO Regions

	NY	NJ	VA	MD	VT
Mechanism	Utility Tariff	Utility Tariff	Utility Tariff	Utility Tariff	PSB-Approved Rates Statewide
Energy Price	Real-Time LBMPs – floor price of 6.0 cents/kWh	Load weighted average LMP	Day-Ahead LMP	PJM market prices for time period energy is produced	Based on long-term forecast from consultant
Capacity Price	Based on LBMCP using unforced capacity	Based on revenue from PJM (must qualify for PJM auction)	Based on PJM capacity resource clearing prices	PJM market prices	Based on long-term forecast from consultant
Losses	Con Ed has factor of 1.066 for delivery at secondary distribution	N/A	2.8% for line losses	N/A	Adjusted for Local T & D
RECs	REC transfer not covered by statute	N/A	N/A	N/A	Retained by QF
Frequency of price updates	N/A	N/A	N/A	N/A	Annually per Rule 4.100
Length of contract	N/A	N/A	N/A	N/A	5, 10, 15, 20, or 30-year options

End of Presentation



Additional Discussion or Questions ?



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APPENDIX

- ☐ State level detail
 - ☐ New England
 - ☐ Other states
- ☐ Qualifying Facilities in New England



New Hampshire: Limited Electrical Energy Producers Act

- **Utilities purchasing power from qualifying facilities “shall pay rates per kilowatt hour to be set from time to time by the commission. Such rates shall be based on the purchasing utility’s avoided costs... either calculated for the time of delivery or calculated for a specified term at the time of qualifying small power producer or qualifying co-generator agrees to be obligated to deliver for the specific term.” NH Statutes Chapter 362-A**
- **Commission considers any mutually agreed upon contract that differs from the rate or terms that would otherwise be required by the Commission**

Effective August 25, 1998



New Hampshire Net Metering: NH Code of Administrative Rules PUC 900

- **Commission annually determines net metering rates consistent with requirements of PURPA published on NH PUC website: <http://www.puc.state.nh.us/electric/electric.htm>**
- **Net metering rates for avoided costs based on short-term avoided energy costs for the New Hampshire load zone**
 - **RT-LMP of electricity plus generation related ancillary service charges, all adjusted for the average line loss in New Hampshire between the wholesale metering point and the retail metering point**
 - **Capacity costs based on applicable FCM price, adjusted to account for any peak energy rent payments made from energy market reducing direct capacity costs charged to load and for average line loss**

New Hampshire – Public Service New Hampshire (PSNH)

- **FERC granted PSNH request to terminate mandatory purchase obligation for QFs larger than 20 MW (131 FERC ¶ 61,027)**
- **PSNH tariff specifies rates for QF power sales (Section 33 of Electricity Delivery Service Tariff – NHPUC No. 8)**
 - **QF may sell to PSNH or wheel through PSNH (wheeling charges may apply which include distribution) through separate contract or "Short Term Avoided Cost Rate"**
 - **"Short Term Avoided Cost Rate" is based on revenues from PSNH's resale to ISO-NE market, adjusted for "line losses, wheeling costs, and administrative costs"**
 - **Net Metering available to renewable facilities less than 1,000 kW**
- **QF maintains rights to RECs**
- **PSNH signed 20-year contract for Berlin biomass facility**

Sources: http://elibrary.ferc.gov/idmws/file_list.asp?document_id=13808630;
<https://www.psnh.com/downloads/Electric%20Delivery%20Service%20Tariff.pdf?id=4294988540&dl=t>
<http://www.puc.state.nh.us/electric/electric.htm>; <http://www.puc.state.nh.us/Regulatory/Orders/2011orders/25213e.pdf>

Connecticut – Connecticut Light and Power (CL&P)

- **CL&P maintains Rate 980 for Non-Firm Power Purchases from “any self-generation facility”**
- **CL&P maintains Rider N for Non-Class 1 Renewable and QF Self-Generator Net Energy Billing Service**
 - Available to QFs under 50 kW for customers taking service under certain rates
 - If energy sold to CL&P exceeds energy purchases, the net sales will be credited per Rate 980



https://www.cl-p.com/Home/AboutCLP/Service_Territory_Map/?MenuID=4294985160

Connecticut – Connecticut Light and Power (CL&P)

■ Rate 980 Energy

- If the facility has a time-differentiated meter, then power is purchased at ISO-NE hourly RT-LMP clearing price, either at the generator node—if it exists—or the Connecticut Zone price
- With no time-differentiated meter, energy is purchased at the average RT-LMP over the billing period

■ Rate 980 Capacity

- CL&P retains capacity rights without any capacity payment if the generation unit was subsidized by ratepayers through certain grants
- Customer retains capacity rights if it is an emergency generator or if the customer is not under long-term contract, has a settlement account with ISO-NE and the generating unit entitled to capacity is in excess of that subsidized by ratepayers



Connecticut – Connecticut Light and Power (CL&P)

■ Rate 980 RECs

- CL&P retains RECs if power purchase was made through long-term contract which uses Rate 980 as pricing mechanism or if the contract provides it
- DG projects not under long-term contract retain RECs

■ Rate 980 Adjustments to Line Losses

- Purchases made at voltage levels of 69kV or higher are paid the appropriate RT-LMP market clearing price
- Purchases made at levels less than 69 kV:

Purchase Voltage	Alternative A (hourly metering) On Peak	Alternative A (hourly metering) Off Peak	Alternative B (No time differentiated meter)
Bulk Substation	0.5%	0.34%	0.42%
Primary Distribution	4.38%	2.89%	3.60%
Secondary Distribution	7.13%	4.59%	5.80%

Rhode Island – Narragansett Electric Company (NEC)

- **NEC maintains tariff R.I.P.U.C. No. 2098 specifying QF power purchase rates for QFs less than 20 MW and *not* eligible for net metering:**

QF Criteria	Rate
Facilities meeting definition of renewable energy resources (Defined in R.I.G.L. Section 39-26-5)	Standard Offer Service (SOS) rate for the applicable retail delivery rate (based on QF capacity) for each kWh in excess of facility requirements.
All other QFs	Hourly clearing prices at ISO-NE for electricity generated in excess of requirements. QFs may receive payments for capacity and/or reserves-related products if recognized by NEPOOL or ISO-NE.

- **Resources meeting net metering eligibility subject to Net Metering Provision, R.I.P.U.C. No. 2075**
- **NEC entitled to cost recovery for any differences in payments to QFs and actual payments received from ISO-NE through a uniform surcharge embedded in the distribution component from all customers**

Sources: http://www.nationalgridus.com/narragansett/non_html/rates_tariff.pdf
<http://webserver.rilin.state.ri.us/Statutes/title39/39-26/39-26-5.HTM>
http://www.nationalgridus.com/non_html/RI_DG_Net_Metering_Tariff.pdf

Maine – Maine PUC Rules Chapter 360

- **Chapter 360 specifies rates for sales of power from small power producers and cogeneration units**
 - **Short-term energy purchases**
 - Each T&D utility that has a QF contract shall file rates annually with the Commission calculated as “the sale prices accepted pursuant to the sale of the rights to the energy component of QF contracts”
 - **Standard rates for energy and capacity (QFs <1000 kW)**
 - Each T&D utility that has QF contract shall file rates annually with the Commission calculated as “the sale prices accepted pursuant to the sale of the rights to the energy and capacity components of QF contracts”
- **Maine statute indicates that rates are negotiated between the utility and the generator and if they are unable to agree they are set by the Commission**

Maine – Maine PUC Rules Chapter 360

- **Net Metering:** Any QF that has an installed capacity of 100 kW or less may opt to sell electricity to an electric utility on a net energy billing basis
 - If QF obtains retail generation service from a competitive electricity provider, net energy shall be purchased at rates agreed upon by the QF and the competitive electricity provider
 - If QF obtains SOS, net energy shall be purchased at rates established pursuant to the existing contract
- **Line Losses:** In determining rates for purchase of energy, the Commission may consider the costs or savings resulting from variations in lines losses from those that would have existed in the absence of purchases from a QF

Maine – Maine PUC Rules Chapter 315

- **Under Chapter 315, eligible generators shall pay the utility's administrative costs pursuant to a rate schedule approved by the Commission**
- **Chapter 315 specifies standard offer provider purchase obligations of power from facilities 5 MW or less**
 - **Price is equal to the ISO-NE RT nodal clearing price at the node which the generator is located as adjusted for administrative costs or another price accepted by the Commission**
 - **Standard Offer Provider has transmission and distribution service territory where the eligible generator is located**
 - **Generator retains rights to GIS certificates**

Massachusetts - MA CMR 220, §. 8.05

- **Net Metering: On-site Generating Facilities (OSGF) less than 60 kW may elect net metering. Generation must serve the load at the same physical location as the QF or OSGF.**
- **Rates are market-based and set as follows:**

QF Capacity	Rate
≥ 1 MW	"...equal to payments received by the Distribution Company from the ISO power exchange for such output for the hours in which the Qualifying Facility generated electricity in excess of its requirement." 220 CMR 8.05 (2)(a)
>60 kW and <1 MW	"...equal to the arithmetic average of the Short-run Energy rate in the prior calendar month for the KWH which the Qualifying Facility generated electricity in excess of its requirements." 220 CMW 8.05 (2)(b)
≤ 60 kW	Option to have same rates as QFs between 60 kW and 1 MW or to use net metering. 220 CMR 8.05 (2)(c)

Massachusetts - MA CMR 220, §. 8.05

- **Line Losses:** Rates adjusted for line losses. Each Company files its line loss factors with the DPU.
- **Capacity and Reserves:** The Company shall make payments to a QF for capacity and/or reserves-related products if the sale is recognized by NEPOOL. The Company shall pay rates equal to the payments received for the sale of any capacity and/or reserves-related products associated with such QF output to the ISO power exchange.
- **Allco Renewable Energy** petitioned FERC for enforcement action against MA DPU for only allowing short term avoided cost rates and not long-term contract rates; FERC did not bring such an enforcement action

Sources: 220 CMR 8.05 (6); 220 CMR 18.0; https://www.nationalgridus.com/masselectric/non_html/rates_tariff.pdf
<http://www.lawlib.state.ma.us/source/mass/cmr/cmrtext/220CMR8.pdf>; Allco Docket: EL14-84

NYISO-Niagara Mohawk

- **Niagara Mohawk's tariff has Service Classification No. 6 for QFs**
 - **Energy payments based on Real Time LBMPs**
 - **Capacity payments made based on LBMCP paid based on the amount of unforced capacity supplied by the generator per NYISO rules**
 - **Minimum unit rate of no less than 6.0 cents/kWh averaged over the year may apply**
 - **Average LBMP rates may be used if no interval metering is available**
 - **QF may take payment directly from NYISO for ancillary services**
 - **Certain small renewable QFs with less than 5 MW of nameplate capacity may elect to take payment based on a Day Ahead LBMP and avoided ancillary service rate (no capacity payments)**

NYISO-Con Ed

- **Con Ed's tariff has Service Classification No. 11 for buyback service for QFs**
 - **Customers may elect to sell capacity and energy directly into NYISO market or sell to Con Ed and be paid at NYISO market rates**
 - **For customers selling to Con Ed and are >1 MW, they submit a schedule of electricity export**
 - Scheduled deliveries are paid the Day Ahead price
 - Differences between scheduled and actual deliveries are paid the lower of the Real Time price or Day Ahead price, not to be lower than zero
 - **Customers selling to Con Ed that are less than 1 MW are paid a monthly average real-time price for all deliveries**
 - **Adjustment factor: for customers delivering at secondary distribution (delivery to NYISO or Con Ed), the LMP price will be increased by a factor of adjustment of 1.066 taken to the nearest cent**

NYISO-Others

- **NYSEG has Service Classification No. 10 for QFs**
- **Rochester Gas and Electric has Service Classification No. 5 for Buy-Back Service for QFs**
- **Both provide market-based rates similar to the other utilities in the state**

Sources: <https://www2.dps.ny.gov/ETS/jobs/display/download/5527506.pdf>;
<https://www2.dps.ny.gov/ETS/jobs/display/download/5526916.pdf>

PJM- Public Service Electric & Gas (PSE&G)

- **Distinct rate for Qualifying Facility as defined by PURPA**
- **Rate includes service charge, energy payment, and capacity payment**
 - **Energy payment in an month is based on “avoided energy cost by time period or by hour, as applicable, in that month (defined as the load weighted average Location Marginal Price (LMP) for the Public Service Transmission Zone)”**
 - **Capacity payment applicable when capacity exceeds 100 kw and capacity meets PJM criteria. If applicable, payments are based on revenue received by Public Service for selling such capacity in the final PJM capacity auction prior to delivery, “adjusted for all penalties and other charges assessed for non-performance or unavailability of such capacity”**

Tariff: B.P.U.N.J No. 15 Electric

PJM-Virginia Electric and Power

- **Schedule 19 provides for power purchases from QFs up to 20 MW**
- **QFs 10 kW or less may contract to supply energy only**
 - **Payments are based on average PJM market prices and are not time-differentiated**
 - **QFs cannot contract for more than 20,000 kW in capacity if electing for both**
- **Otherwise, QFs contract to supply energy and capacity**
 - **Energy is paid based on the hourly PJM Day Ahead LMP divided by 10 and multiplied by the hourly net generation as recorded by the Company's time differentiated meter, as adjusted for line losses**
 - Energy purchases are increased by 2.8% to account for line losses. A QF may request that the percentage be calculated from a line loss study at the location of interconnection, but the QF must bear the cost of the study
 - **Capacity is based on PJM's capacity resource clearing prices in the Dominion zone**



PJM-Baltimore Gas and Electric

- **Schedule X provides for power purchases from qualified cogenerator or small power producer**
- **Energy and capacity payments are paid based on applicable PJM market prices for time period when energy is produced and delivered to the Company, less any ancillary services costs and other related costs**

MISO-Entergy

- **Entergy has significant QF capacity in its Louisiana service territory**
- **Entergy joined MISO in December of 2013**
 - Integrating QF load into the market and paying QFs at market-based rates was part of the value proposition for Entergy to join an RTO
- **Once Entergy joined MISO, QFs had the choice to either become MISO market participants or continue to put their energy to Entergy at avoided cost rates**
 - The latter are called Behind the Meter (BTM) QFs
- **The LPSC approved Entergy's request to pay BTM QFs at market-based rates after joining MISO (Order U-32628-A)**
 - Prices are primarily based on Real Time LMPs

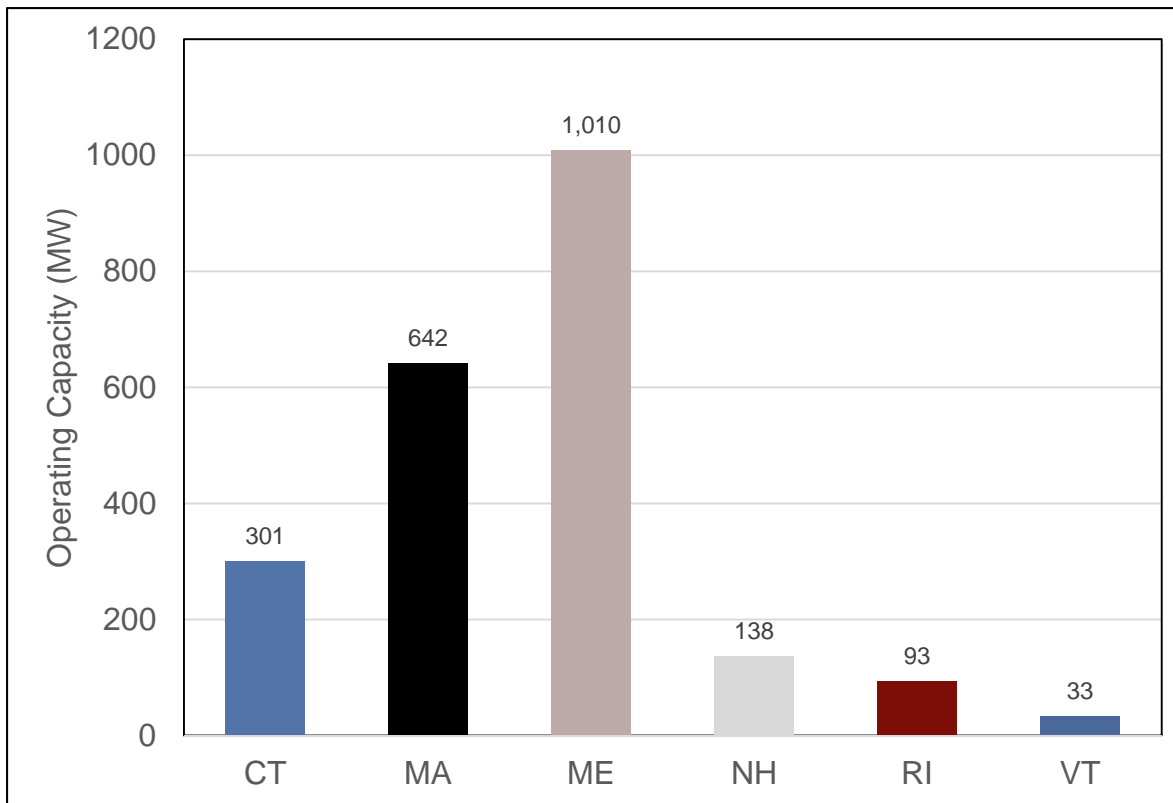
Qualifying Facilities in New England

- ❑ **Pre-2000 QF Operating Capacity**
 - ❑ **QF eligible generation Capacity which may not be using PURPA rates**
- ❑ **Post-2000 QF Operating Capacity**
 - ❑ **QF eligible generation Capacity which may not be using PURPA rates**



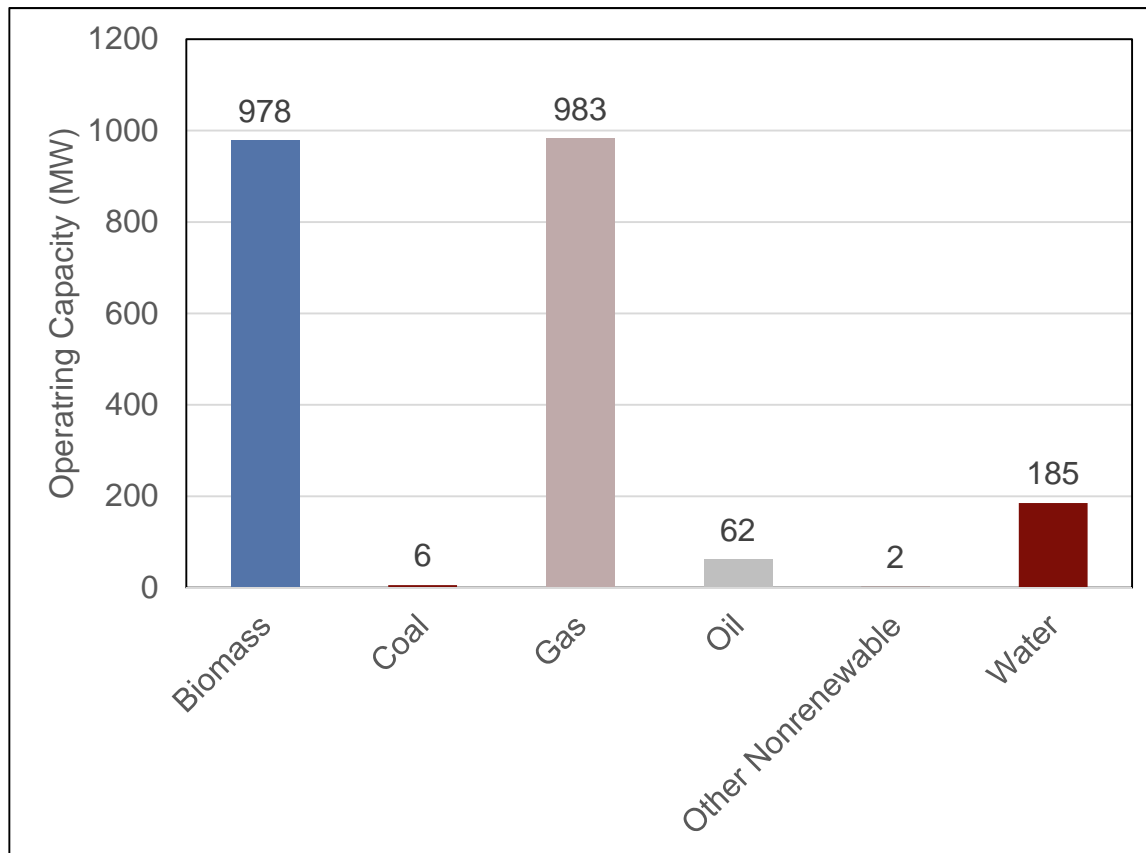


Pre-2000 QF Operating Capacity in New England



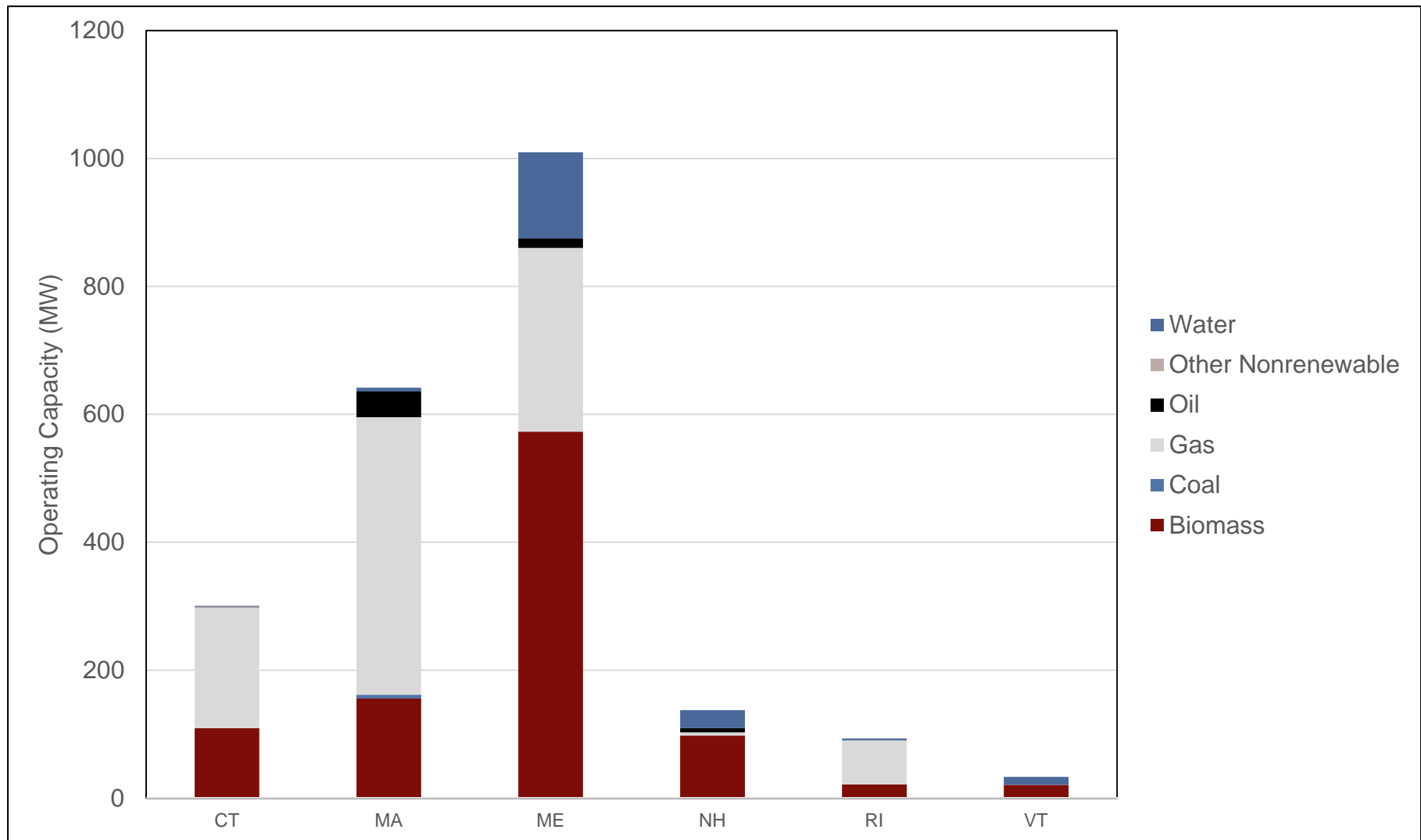
State	Total QF Operating Capacity (MW)
CT	301
MA	642
ME	1,010
NH	138
RI	93
VT	33
Grand Total	2,216

Pre-2000 QF Operating Capacity by Fuel in New England



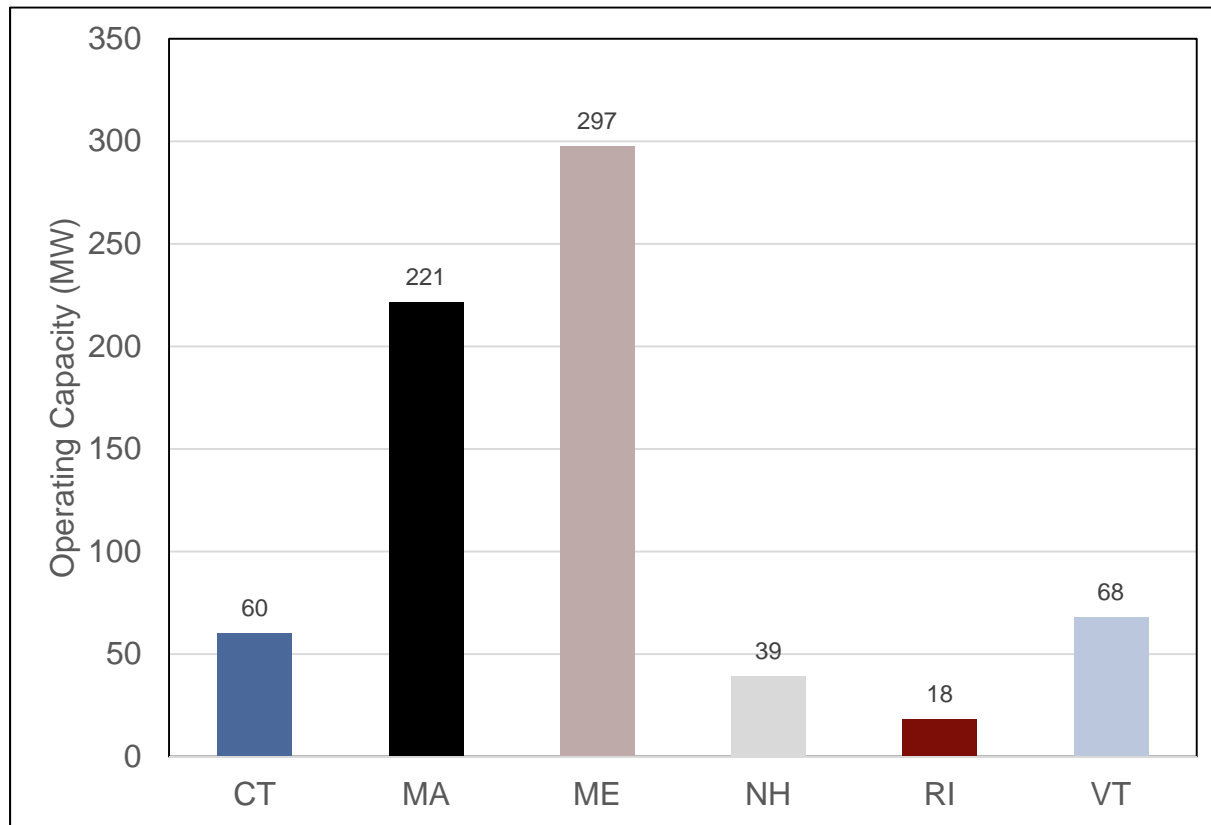
Fuel Type	Total QF Operating Capacity (MW)
Biomass	978
Coal	6
Gas	983
Oil	62
Other Nonrenewable	2
Water	185
Grand Total	2,216

Pre-2000 QF Operating Capacity by State and Fuel



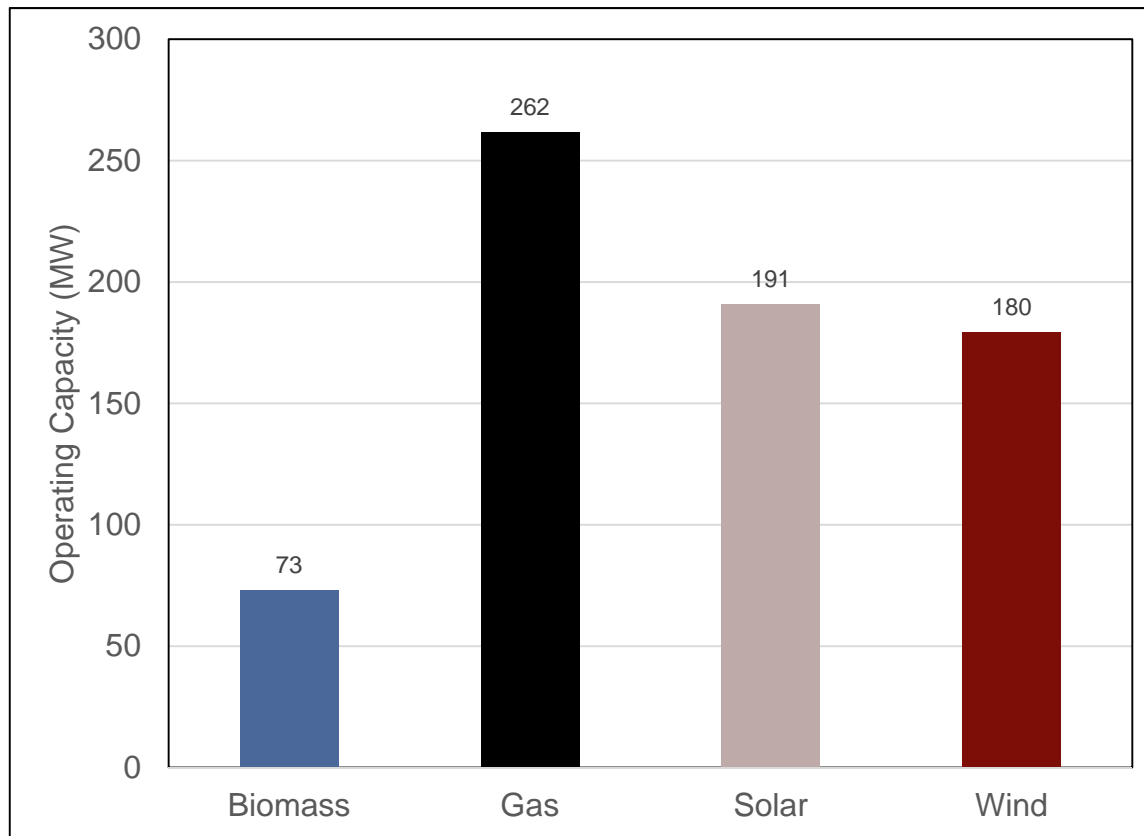
Source: Data retrieved using SNL

Post-2000 QF Operating Capacity in New England



State	Total QF Operating Capacity (MW)
CT	60
MA	221
ME	297
NH	39
RI	18
VT	68
Grand Total	705

Post-2000 QF Operating Capacity by Fuel in New England



Fuel Type	Total QF Operating Capacity (MW)
Biomass	73
Gas	262
Solar	191
Wind	180
Grand Total	705

Post-2000 QF Operating Capacity by State and Fuel

