

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 14-104**

**ELECTRIC RENEWABLE PORTFOLIO STANDARD**

**Adjustments to Renewable Portfolio Class Requirements**

**Order Reducing Class III Requirements for 2013 to 0.5% of Retail Sales**

**ORDER NO. 25,674**

**June 3, 2014**

In this Order, the Commission adjusts the RPS requirements for Class III RECs for compliance year 2013. The Commission reduces the Class III requirements for 2013 from an amount equal to 1.5% of an electricity provider's retail sales to 0.5% of retail sales.

**I. PROCEDURAL HISTORY**

By Order of Notice issued April 16, 2014, the Commission solicited comment regarding whether it should adjust RSA 352-F renewable portfolio requirements, particularly the renewable portfolio requirements for Class III, for calendar years 2013, 2014, and 2015. To that end, the Commission scheduled a public comment hearing for May 1, 2014, to gather (1) information on the reasonably expected potential annual output of available Class III eligible sources, given demand for Class III renewable portfolio certificates (RECs) in other New England States, (2) data on the availability of Class I RECs and recommendations whether Class I requirements should be adjusted, and (3) comments on the renewable portfolio standard (RPS) requirements for Class II and Class IV. The Commission also allowed interested parties to provide written comments by May 8, 2014.

## **II. PUBLIC COMMENT**

The following parties provided oral comments at the public hearing: Public Service Company of New Hampshire (PSNH); Unitil Energy Systems, Inc. (UES); New Hampshire Electric Cooperative (NHEC); New England Clean Energy Council (NECEC); N.H. Department of Environmental Services (NHDES); Concord Steam; Granite State Hydropower Association (GSHA); N.H. Sustainable Energy Association (NHSEA) on behalf of the N.H. CleanTech Council, the Nature Conservancy and the Conservation Law Foundation; Innovative Natural Resource Solutions and New England Wood Pellet (INRS); New Hampshire Timberland Owners Association (NHTOA); Bridgewater Power Company, L.P., Pinetree Power, Inc., Pinetree Power-Tamworth, Inc., Springfield Power LLC, Whitefield Power and Light Company, and Indeck Energy – Alexandria, LLC (Wood Independent Power Producers or Wood IPPs); HotZero; the Jordan Institute; Retail Energy Supply Association (RESA); ReEnergy; and Renewable Energy New England (RENEW). Written comments were provided by PSNH, NHSEA, RESA, ReEnergy, the Wood IPPS, NHDES, and GSHA.

### **A. Comments on Class I Requirements**

PSNH stated that it has experienced extreme difficulty procuring RECs across all REC Classes. With respect to Class I RECs (new), PSNH has issued requests for proposals (RFPs) soliciting Class I RECs and to date has only procured a small portion of its Class I REC requirements. PSNH will continue to seek RECs via brokers and suppliers until the transaction deadline of June 15, 2014. Based on its experience, PSNH anticipates that the solicitations will not result in sufficient RECs to meet its 2013 requirements. For compliance year 2014, however,

PSNH expects to fully meet its Class I REC requirements under the Burgess Biopower PPA and through other sources.

UES informed the Commission that it conducted two RFPs for 2013 RPS requirements for all four classes, which resulted in no bids for Class II or Class III RECs. UES received bids for Class I and Class IV 2013 RECs. Regarding compliance year 2014, a similar solicitation resulted in no bids for Class II or Class III RECs, but UES did receive bids for Class I, Class IV, and the new Class I thermal requirements for 2014. UES pointed out, however, that the bid results for Class I RECs for 2014 met only a small fraction of its Class I requirements. Based on this result, UES believes that Class I RECs that qualify for 2014 will also be constrained, and that a large portion of its 2014 Class I requirements will have to be met by making the alternative compliance payment (ACP) into the renewable energy fund (REF).

Concord Steam expressed concern that by changing the REC requirements, the Commission makes it more challenging for generation projects to obtain financing. For example, a purchaser of RECs may be reluctant to enter into a long-term contract if the class requirements are subject to change from year to year. Concord Steam suggested that the best way to address this problem is to maintain stable REC requirements.

NECEC opined that the RPS does work and that it is important to let the market operate. NECEC stated that investors in renewable energy projects need market certainty and recommended that the Commission make no change to any Class requirements.

NHSEA argued that the Commission does not have “good cause” to accelerate or delay the Class I requirements. According to NHSEA, the RPS is working, and compliance by making ACPs into the REF does not indicate program failure. Rather, NHSEA opined that REC prices

and ACP compliance send the market signals as to what types of new generation need to be built, and then provide a revenue stream through the REF to catalyze the development of new projects that will generate eligible RECs. NHSEA urged the Commission to maintain the existing Class I requirements.

ReEnergy said that there appears to be a concern among some parties that there is an inadequate supply of Class I RECs for 2013 and 2014. ReEnergy said that based on its review of NH Class I REC availability at the New England Power Pool-Generation Information System (NEPOOL-GIS), the administrator of RECs produced in the New England market, there are sufficient eligible Class I eligible facilities for the New Hampshire REC market. ReEnergy concluded on that basis that there is no evidence to delay the schedule of NH Class I REC requirements.

RESA also opined that Class I markets are constrained at this time, both by the percentage requirements and by the ACP price. RESA recommended that the Commission reduce Class I requirements for compliance years 2013-2016. RESA said that such a reduction would provide a reasonable opportunity for the market to correct and increase the available supply in future years.

INRS recommended that the Commission not take any action to modify the Class I subset of useful thermal RECs.

NHDES urged the Commission to make no adjustment to any RPS Class requirements. HotZero and RENEW also recommended that the Commission make no changes to any RPS Class requirements.

**B. Comments on Class II Requirements**

PSNH said that Class II (new solar) RECs for compliance year 2013 were simply not available. PSNH stated that it issued an RFP in February 2014 that yielded zero offers for RECs for 2013. PSNH said it anticipates meeting its Class II requirements for 2013 by paying the ACP price of \$55.37 per REC.

NECEC stated that the NH RPS II requirements are very modest and should be maintained at the current level.

NHSEA urged the Commission not to alter the Class II REC requirements. NHSEA pointed out that New Hampshire has a much lower ACP for Class II than other New England States, and that the New Hampshire requirements are very modest when compared with other states. NHSEA urged that Class II requirements should be maintained and strengthened. In addition, NHSEA said that the recent group net metering law will likely bring on significant new Class II capacity.

**C. Comments on Class III Requirements**

PSNH stated that it has issued a number of RFPs and had frequent contact with brokers and suppliers, but has yet to purchase a single Class III REC (existing biomass/methane) towards either 2013 or 2014 compliance. PSNH said that it issued its most recent RFP on May 1, 2014, and requested volumes of 60,000 RECs for 2013 and 120,000 RECS for 2014, and received zero offers in response.

NHEC stated that while it generally was able to meet its RPS requirement through the purchase of RECs, it had not been able to purchase any Class III RECs for either 2013 or 2014. NHEC estimated that, if the requirement levels are not adjusted, its members will fund Class III

ACP expenditures of \$310,000 for 2013, \$650,000 for 2014, and \$2,372,000 for 2015. NHEC said that there appeared to be consensus that there is no expectation that Class III RECs are available for compliance year 2013 or 2014. Based on NHEC's review of RSA 362-F:4, VI, it determined that Class III requirements for 2013 and 2014 should be equal to zero.

ReEnergy noted that New Hampshire Class III RECS are eligible as Class I in other states, resulting in the supply of NH Class III RECs being sold in other states with higher current prices. Nonetheless, ReEnergy recommended that the Commission not make any adjustment to Class III requirements for 2013 or for future calendar years.

RESA noted the constrained availability of Class III RECs and said that modifying the Class III requirements would be in the best interest of customers. RESA recommended that the Commission reduce Class III REC requirements for 2014 through 2016 to provide a reasonable opportunity for the market to correct and increase the available supply in the market. RESA said the Commission should use the methodology in the statute and reduce the requirements to an amount equal to between 85% and 95% of the reasonably expected annual output of Class III eligible sources, after taking into account demand from similar programs in other states.

The Wood IPPs recommended that the Commission adjust Class III REC requirements only for the 2013 and 2014 compliance years. According to the Wood IPPs, NH Class III RECs qualify in Connecticut as Class I RECs and are sold there for a higher price than is available in the New Hampshire REC market. The Wood IPPs said that certain changes were made to the Connecticut RPS law that are scheduled to commence on January 1, 2015, and could result in more NH Class III RECs being available for NH RPS compliance.

#### **D. Comments on Class IV Requirements**

GHSA provided comments on Class IV (existing small hydroelectric) RPS requirements. GHSA noted that NH Class IV RECs are cross-qualified either in Massachusetts as Class II renewable resources or in Connecticut as Class I renewable resources, which means there are competing demands for the RECs generated by New Hampshire Class IV sources. Because the price in Connecticut for Class I RECs is significantly higher than it is in New Hampshire, and the price in Massachusetts for Class II RECs is slightly higher than it is in New Hampshire, a portion of the overall supply of NH Class IV RECs is being sold into Connecticut and Massachusetts. GHSA opined that the Class IV REC market is operating efficiently and that no change is needed at this time. GHSA also stated that the ACP prices could be increased through legislative action so that the Class IV price would be slightly more than the Massachusetts Class II price.

PSNH reported that it has procured over 55% of its 2013 Class IV REC obligation and continues to make progress towards full compliance. Regarding 2014, PSNH said it is currently short approximately 50,000 RECs, which represents over 90% of its requirement. PSNH stated that it will continue to issue periodic RFPs and anticipates being able to procure a significant portion for its Class IV obligation for 2013 and 2014.

### **III. COMMISSION ANALYSIS**

At the outset, we reviewed the record and determined that there is no good cause to adjust Class I, Class II, or Class IV requirements. While it may be difficult for electric suppliers to purchase an adequate amount of Class I RECs to meet the NH RPS obligations, we do not find the constraints merit a downward adjustment of Class I REC requirements. Similarly, although Class IV facilities constitute a limited number of generation units, we do not find that there is

any undue hardship for suppliers to either purchase eligible RECs or pay the ACP into the REF. Regarding Class II, we agree with those who urged the Commission to maintain the Class II requirement at its current level to signal that more solar generation facilities are needed to increase the supply of Class II RECs in the market.

We do find that it is appropriate to make a downward adjustment to the 2013 requirements for Class III RECs. As described in the statute, Class III RECs are produced from facilities that began operation prior to January 1, 2006, and produce power with eligible biomass technologies having a gross nameplate capacity of 25 megawatts or less, or methane gas. Because the eligible facilities must have begun operation before 2006, new biomass facilities are not eligible for Class III status, and thus the number of eligible facilities is fixed. Further, because the New Hampshire RPS law operates in connection with the regional REC market operated by the NEPOOL-GIS, New Hampshire Class III RECs may be and, in fact, are eligible to meet the RPS requirements in other states. Both the electric utilities and Wood IPPs provided testimony that New Hampshire Class III eligible facilities can sell the RECs they produce at a higher price in Connecticut than in New Hampshire and that this situation would likely continue for some time.

Pursuant to statute, the Commission may adjust Class III RPS requirements as necessary and consistent with the purposes of chapter RSA 362-F. The relevant portion of the law states:

After notice and hearing, the commission may modify the class III and IV renewable portfolio requirements under RSA 362-F:3 for calendar years beginning January 1, 2012 such 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.

RSA 362-F:4, VI.

In determining how to modify the Class III requirements, we refer to the amount of New Hampshire eligible Class III RECs generated in 2012 and assume that the same amount of Class III RECs will be produced in 2013. We note that approximately 2.5% of New Hampshire eligible Class III RECs generated in 2012 were not used to comply with 2012 RPS requirements in any state, and that an additional small amount of Class III RECs were banked in 2011. Biomass facilities reported that most or almost all of the RECs generated in 2013 were sold in other markets. We did not hear from landfill gas facilities and therefore we assume that a small amount (less than 8%) of RECs produced by the New Hampshire eligible landfill gas facilities may be available for 2013 compliance. We thus believe that approximately 10% of the New Hampshire eligible Class III RECs, equal to 67,971 megawatt hours (MWh) produced in 2013, may be available for purchase to comply with the 2013 RPS requirements.

Pursuant to RSA 362-F:4, VI, the Commission may modify the Class III requirements such that 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.” We calculate that 85% of the estimated output of 67,971 MWhs is 57,775 MWhs, or 0.5% of the estimated electricity sales for 2013. Consequently, we find that that it is appropriate and consistent with the statute to modify the Class III RPS requirements for 2013 to 0.5% of retail electricity sales.

At present, we are not inclined to similarly adjust the RPS Class III requirements for any years beyond 2013. As noted by several parties at the public comment hearing, we made a downward adjustment to Class III requirements for compliance year 2012 and 2013. *See* Order No. 25,484 (April 4, 2013). Pursuant to RSA 362-F:3, Class III RPS requirements increase to

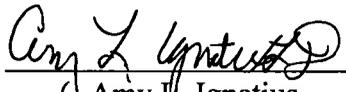
3.0% of retail electric sales in 2014 and to 8.0% of such sales in 2015. We heard that the constraint in the supply of Class III RECs will likely continue at least through 2015. Although the Commission has authority to make downward adjustments in Class III REC requirements in these following years, we will continue to monitor the regional markets before contemplating any further adjustments,

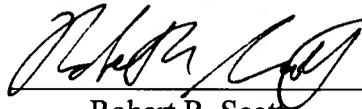
Several commenters stated that the underlying issue is that New Hampshire's Class III RECs are being sold almost exclusively into other states where ACP levels, as well REC prices, are higher. Therefore, to address the root cause of the Class III REC shortfall, the General Court may wish to explore the possibility of synchronizing the Class III ACP price with those of Connecticut and Massachusetts.

**Based upon the foregoing, it is hereby**

**ORDERED**, that the Class III RPS requirements for compliance year 2013 shall be reduced from 1.5% to 0.5% of retail electric sales for each electricity provider.

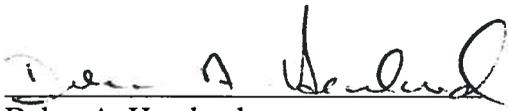
By order of the Public Utilities Commission of New Hampshire this third day of June, 2014.

  
Amy L. Ignatius  
Chairman

  
Robert R. Scott  
Commissioner

  
Martin P. Honigberg  
Commissioner

Attested by:

  
Debra A. Howland  
Executive Director