

STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION



RE: DE 14-104  
ELECTRIC RENEWABLE PORTFOLIO STANDARD  
(PUBLIC STATEMENT HEARING)

**PRESENT:**

Chairman Amy L. Ignatius, Presiding  
Commissioner Robert R. Scott  
Commissioner Martin P. Honigberg

Sandy Deno - Clerk

**APPEARANCES:**

**Representing Public Service of NH:**  
Richard Labrecque

**Representing N.H. Electric Co-op:**  
Mark Dean

**Representing UES:**  
Gary Epler

**Representing Concord Steam:**  
Mark Saltsman

**Representing NECEC:**  
Dan Bosley

**COURT REPORTER:** Susan J. Robidas, NH LCR

## APPEARANCES (cont'd)

1  
2       **Representing NH DES:**  
3       Michael Fitzgerald

4       **Representing NH SEA:**  
5       Kate Epsen

6       **Representing Innovative Natural Resource**  
7       **Solutions and New England Wood Pellet:**  
8       Charlie Niebling

9       **Representing Pinetree Power, et al:**  
10       Robert Olson

11       **Representing ReEnergy:**  
12       Nathan Hebel

13       **Representing NH Timberland Owners Assoc.:**  
14       Jasen Stock

15       **Representing N.E. Geothermal Prof. Assoc.**  
16       Martin Orio

17       **Representing RENEW:**  
18       Francis Pullaro

19       **Representing HotZero:**  
20       Dick Henry

21       **Representing Exelon and RESA:**  
22       Daniel Allegretti

23       **Representing NH Ratepayers:**  
24       Susan Chamberlin, Consumer Advocate

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CHAIRMAN IGNATIUS: Welcome.

We're here on 14-104 involving the Electric Renewable Portfolio Standard, which is set by statute, R.S.A. 362-F. And it sets requirements, as you all know, for compliance with varying levels of renewable energy certificates or compliance payments in different classes, year by year. And we have called a hearing today to get your comments on whether those limits that are set by statute are appropriate for 2013 compliance, 2014 and 2015, given what's available in the market and what the expectations are.

So we sent an order of notice out setting a hearing for this morning, asking people to come in and make their comments, if they have them, or listen to each other's comments if you just want to understand. And that's perfectly fine as well. We obviously have many people who have signed up, and it looks like some want to speak and some don't intend to speak. We'll

1 just go through them in order.

2 But I think the question would  
3 be: Do people understand enough of the kind  
4 of status that we're in and what led the  
5 Commission to issuing the order of notice to  
6 simply begin with comments, or would you  
7 rather have the Staff give a brief overview  
8 of what led to the issuance of the order of  
9 notice to set the stage? If that's not  
10 necessary, we obviously don't need to take  
11 the time to do it. But if people are  
12 feeling -- if your comment is going to be,  
13 "Why are we here?" then I think we would want  
14 to take a few minutes to kind of lay it out  
15 at the front end.

16 So, maybe just a show of  
17 hands. Are there people who want a quick  
18 overview? That's a lot of hands. And if I  
19 ask people who don't want a quick overview,  
20 it may be the Staff that raises their hands.

21 MS. AMIDON: We don't want an  
22 overview.

23 CHAIRMAN IGNATIUS: Then, why  
24 don't we -- can I ask, Ms. Nixon, can you just

1 explain, and I don't mean in exhaustive detail,  
2 but sort of a few minutes, what you're seeing,  
3 what we've had presented in testimony in other  
4 cases, or your estimates of what the market is  
5 looking like and what led to this proceeding?  
6 Thank you.

7 MS. NIXON: For Class III, it's  
8 been our understanding that there really aren't  
9 any RECs available in New Hampshire. We've  
10 heard public testimony here from a few  
11 utilities regarding that, as well as from  
12 various other sources, that those RECs are  
13 being sold into other states. The Commission  
14 and the legislature did lower that percentage  
15 to 1.5 percent. But just wondering if it  
16 should be changed for 2013, as well as 2014 and  
17 2015.

18 And then, in terms of the  
19 other classes, again, just interested to hear  
20 what the supply is out there. We're hearing  
21 there may be a shortage in Class I. There's  
22 a great supply, but whether those are all  
23 going to be used in New Hampshire is what  
24 we're trying to understand. And then, for

1 Class IV, last year we had about 50 percent  
2 from REC compliance and 50-percent ACP  
3 compliance.

4 So, again, just trying to  
5 understand the market out there and where it  
6 is today and where it's heading down the  
7 road.

8 CHAIRMAN IGNATIUS: Thank you.  
9 That's helpful.

10 Ms. Amidon, anything further?

11 MS. AMIDON: Yes. I just wanted  
12 to add that the reason that we initiated this  
13 on such a schedule is because the trading  
14 period for RECs at the ISO ends in about 45  
15 days. The compliance year 2013 would be  
16 implicated by that. And we wanted to have the  
17 Commission have the opportunity to hear if  
18 there is a need to make any revisions to the  
19 compliance year 2013 so that an order can issue  
20 as soon as possible regarding that. Thank you.

21 CHAIRMAN IGNATIUS: That's  
22 helpful, too. Thank you.

23 Commissioner Scott.

24 CMSR. SCOTT: Can you outline,

1 is there any reason not to talk about the  
2 amount of ACP payments we're talking, the  
3 potential and order of magnitude?

4 MS. NIXON: Well, if the full  
5 amount of Class III RECs is from -- compliance  
6 is from ACPs, it would be about \$5 million.  
7 And then, just based on my quick estimate is  
8 that ACP potentially could be \$17 to  
9 \$22 million is my estimate. Again, that's a  
10 back of the envelope for all classes for 2013.  
11 But that's my back-of-the-envelope estimate.

12 CMSR. SCOTT: Thank you.

13 CHAIRMAN IGNATIUS: And for the  
14 record, if any of you don't know, that's Liz  
15 Nixon, who's on our sustainable energy staff.  
16 You probably have e-mailed or seen filings from  
17 her but may not have met her personally.

18 Why don't we begin, then, with  
19 comments. Is anyone wanting to lead off?  
20 Has there been any discussion among you on  
21 who would want to go first, or should we just  
22 go in order of how the sign-in sheet was  
23 filled out? Any volunteers to be the  
24 lead-off?

1 MS. AMIDON: I just would  
2 recommend that you start with Mr. Labrecque  
3 because --

4 MR. LABRECQUE: Because I'm  
5 dressed so nicely?

6 MS. AMIDON: And that's exactly  
7 why. Thank you.

8 CHAIRMAN IGNATIUS: And you  
9 happened to be the first one on the sign-up  
10 sheet, so it was meant to be. So, Mr.  
11 Labrecque.

12 MR. LABRECQUE: Hi, I'm Rick  
13 Labrecque from PSNH, manager of their  
14 supplemental energy department, which, among  
15 other things, handles their RPS compliance  
16 obligations.

17 I just want to state that,  
18 yeah, we're having extreme difficulty  
19 procuring RECs across all classes, some more  
20 than others. And I know all for different  
21 reasons of market dynamics, that may change  
22 over time. But in the short term, what we're  
23 seeing is essentially zero response to our  
24 last two RFPs for RECs. We have had some

1 response in the Class IV category. We're  
2 still able to buy in some small quantities  
3 from time to time. We still are projecting  
4 only meeting roughly half of what we need to  
5 buy for Class IV. Class III, we've received  
6 zero offers. The solar Class II, you know,  
7 we need thousands of RECs, and we've managed  
8 to buy maybe 1500 RECs. Again, all classes  
9 have their own reasons why they're  
10 under-supplied at the moment, valid market  
11 reasons. You know, if a generator can sell  
12 their RECs for a higher revenue stream in a  
13 different state, they certainly have the  
14 right and obligation to do that. So there's  
15 nothing nefarious going on here. It's just  
16 the various classes are all suffering kind of  
17 at the same time for a variety of reasons.

18 I have -- you know, I'm not  
19 going to run through numbers. I can do it at  
20 a future time or with Staff informally. If  
21 need be, I can provide details on the  
22 responses to our RFPs, if need be. But just  
23 in general, I support the notion that there  
24 is an extreme shortage in most of the classes

1 right now.

2 And I would also just echo  
3 what I believe Suzanne said about, you know,  
4 the utilities and the load service do get  
5 geared up to make their ACP payments on  
6 July 1st. And working back, you know, to  
7 July -- excuse me -- June 15th is when all  
8 transactions have to be locked in place in  
9 the REC database, the GIS database. So,  
10 really, time is of the essence in helping  
11 load service understand their ultimate  
12 obligation.

13 CHAIRMAN IGNATIUS: Thank you.

14 MR. LABRECQUE: Thank you.

15 CHAIRMAN IGNATIUS: Commissioner  
16 Scott, you have a question?

17 CMSR. SCOTT: Yeah, thank you.

18 I take your statement that, I  
19 assume when you go out for solicitation for  
20 RECs, your ceiling is New Hampshire ACP  
21 price; correct?

22 MR. LABRECQUE: Correct.

23 CMSR. SCOTT: And I don't want  
24 to ask you to prove a negative here, but -- so

1 your statement that they're not available,  
2 they're not available at a price lower than the  
3 New Hampshire ACP price; correct?

4 MR. LABRECQUE: Right. We have  
5 had a few offers, I'm trying to recall, for  
6 solar RECs, like in the \$90 range. Obviously,  
7 the ACP being \$55, we opted not to buy those.  
8 Again, the quantities weren't large, and that  
9 was kind of an oddball. I would assume most  
10 suppliers of RECs don't even bother sending me  
11 an offer to sell at \$70, say. So, you may be  
12 right, in that, if we put in our RFP, Hey,  
13 everybody, even though the ACP is \$55, we'll  
14 pay whatever. You know, we might squeeze some  
15 more offers out of the market. So I don't --  
16 we haven't seen many over the ACP, probably  
17 because they know not to bother doing so.

18 CMSR. SCOTT: Thank you.

19 CHAIRMAN IGNATIUS: All right.  
20 Why don't we group these by utilities first,  
21 and so let me turn next to Mr. Dean.

22 MR. DEAN: Thank you. Mark  
23 Dean, representing the New Hampshire Electric  
24 Co-operative. And I think the Co-op's

1 perspective -- or not necessarily  
2 perspective -- but its situation may be a  
3 little bit different from PSNH. It's really  
4 only the Class III RECs that the Co-op  
5 currently is looking at difficulties and  
6 seeing -- well, I would say difficulties in  
7 possibility of purchasing those underneath the  
8 cap.

9                   And the order of notice, I  
10 think, talked about 2013, 2014 and 2015 is  
11 what you were focused on. And this isn't  
12 really rocket science, but if you take the  
13 Co-op's projected load and its obligations  
14 under the statute with the current  
15 percentages and ACPs, you know, its members  
16 would be funding \$310,000 for 2013 ACPs; then  
17 that jumps up to \$650,000 in 2014, and then  
18 jumps up to just about \$2.4 million for 2015.  
19 So, the three-year period you're talking  
20 about is about \$3.4 million in ratepayer ACP  
21 funding if there is no adjustment.

22                   And as I understand your  
23 statutory leniency here in dealing with Class  
24 III, really, the only variable you can work

1 on is the percentage requirement. And also,  
2 the way at least I read that provision, you  
3 know, it seems to essentially mandate a  
4 formula, which is: You can make an  
5 adjustment so that the requirements equal 85  
6 to 95 percent of the reasonably expected  
7 output, taking into account what's happening  
8 in other states. And, you know, frankly,  
9 from our experience so far, that's 85 to  
10 95 percent of zero. And that's our comment.

11 CHAIRMAN IGNATIUS: Thank you.  
12 Mr. Epler from Unitil.

13 MR. EPLER: Yes. Thank you.  
14 And with me here this morning is Todd Bohan,  
15 senior energy analyst.

16 Our comments really echo the  
17 previous statements of Public Service New  
18 Hampshire and the Co-op. I can flush it out  
19 in a little more detail into our recent  
20 experience.

21 Within the last year, Unitil's conducted  
22 two RFPs for meeting its RPS requirements.  
23 In late April 2013, we issued an RFP which  
24 solicited RECs for all four classes for

1 calendar year 2013 compliance. And in that  
2 solicitation, Unitil received no bids for  
3 Class III RECs, nor did it receive bids for  
4 Class II RECs. We did receive bids for  
5 Class I and Class IV 2013 RECs.

6 In February 2014, UES issued --

7 CHAIRMAN IGNATIUS: Hold on.  
8 Something's gone wrong. Off the record.

9 (Pause in proceedings)

10 CHAIRMAN IGNATIUS: All right.  
11 Why don't you go again.

12 MR. EPLER: You missed an  
13 opportunity to talk about my magnetic  
14 personality. [Laughter]

15 In late February 2014, Unitil  
16 issued an RFP for all four classes for 2013  
17 and 2014 compliance years. In that  
18 solicitation, Unitil received no bids for  
19 Class III, nor for Class II RECs, for both  
20 2013 and 2014 compliance. We did receive  
21 bids for Class I and Class IV 2013 RECs and  
22 bids for the new Class I thermal requirement  
23 for 2014.

24 With respect to Class III for

1 the 2012 compliance year, Unitil met its  
2 entire RPS obligation, approximately 11,000  
3 RECs, through ACP payments in the amount of  
4 \$350,000. And for the 2013 compliance  
5 year, Unitil expects to meet its entire  
6 obligation, approximately 11,500 RECs,  
7 through ACP payment in the amount of  
8 \$360,000. RECs that qualify as New Hampshire  
9 Class III apparently also qualify as  
10 Connecticut Class II and are obtaining a  
11 higher price there in the Connecticut market.

12 Unless there's a significant  
13 change in the market, UES anticipates  
14 continuing to meet its obligation for  
15 Class III RECs through ACP payments.

16 With respect to Class I,  
17 while Unitil did receive a bid for Class I  
18 RECS in 2014, the quantity of the bid was a  
19 fraction of that solicited and suggests that  
20 the market for Class I RECs is becoming  
21 constrained as well. While it's early in  
22 2014, and there's a year to go before the  
23 compliance window closes for 2014, if things  
24 do not change, Unitil anticipates having to

1 make significant ACP payments to meet its  
2 obligation for this RPS requirement.

3 CHAIRMAN IGNATIUS: Commissioner  
4 Scott.

5 CMSR. SCOTT: Thank you, Mr.  
6 Epler. I'll ask the similar question I did to  
7 Mr. Labrecque. It appears to me -- and I just  
8 want to see if my presumption is correct --  
9 that the problem we're having is our ACPs for  
10 New Hampshire are set lower than the ACPs in  
11 our neighboring states. So let me ask the  
12 question a different way.

13 If your solicitations were at  
14 a higher price to match the other states'  
15 ACPs as a limit, do you feel you have --  
16 you'd be able to get RECs, or are they just  
17 not available in the foreseeable future, no  
18 matter what?

19 MR. BOHAN: Todd Bohan  
20 with Unitil. I don't anticipate that we would  
21 get a large increase in response. In addition  
22 to the RFPs that we issue, we also try to stay  
23 in contact with suppliers of RECs. And we  
24 reach out to them from time to time outside of

1 the RFP process. They also contact us when  
2 they have odd lots available. And even outside  
3 of the RFPs, I've been asking some of these REC  
4 dealers, you know, "Do you have these RECs  
5 available?" And basically, they've come back  
6 and said there's nothing, particularly on  
7 Class III. And I've gotten very little  
8 activity on Class I.

9 CMSR. SCOTT: So you view that  
10 to be the situation for the next X-number of  
11 years?

12 MR. BOHAN: At least for the  
13 foreseeable future, yeah, the next couple  
14 years.

15 CMSR. SCOTT: Thank you.

16 CHAIRMAN IGNATIUS: Our fourth  
17 electric utility I don't see here. Is there  
18 anyone here from Liberty?

19 (No response)

20 CHAIRMAN IGNATIUS: All right.  
21 Then, the other utility representative would be  
22 Mr. Saltsman from Concord Steam.

23 MR. SALTSMAN: Thank you,  
24 Commissioners. As you are well aware of, and I

1 think many others in this room, we've had a  
2 failed project at Concord Power Steam. And  
3 part of the issue is with, what's being  
4 addressed here today, is changing/moving  
5 targets. And it's made it very, very difficult  
6 to establish funding for any kind of project.

7 Now, early on in the first  
8 project, we had a majority of our RECs under  
9 contract with the Co-op and a Massachusetts  
10 utility, but were unable to complete the  
11 necessary long-term contracts for the  
12 remaining power, which made funding very  
13 difficult, because most of the financial  
14 institutions do not want to enter into  
15 20-year loan agreements with power contracts  
16 that maybe are 5 years or 10 years. In the  
17 case that sounds like with most of the  
18 utilities, they go out and bid a year at a  
19 time. And that makes it -- and, really, this  
20 is a self-perpetuating problem. And I don't  
21 see any relief coming as long as that -- as  
22 long as that is the norm for purchasing RECs,  
23 I don't think that there's going to be any of  
24 these gaps ever filled correctly, because you

1 just can't -- you can't really enter into any  
2 kind of project financing without some  
3 guaranties of the -- being under contract.  
4 And the way it's done today, you just -- it's  
5 simply impossible to get the utilities to  
6 enter into those agreements because they have  
7 no incentive; they can go year to year. And  
8 as the legislators respond to that and as the  
9 Commission responds to what they've done and  
10 we move this target around, it just  
11 self-perpetuates. And it's made it really  
12 difficult not for just us, but for others  
13 that have looked to try to do projects in  
14 this state. It's just made it difficult to  
15 accomplish those things. It's hard to get  
16 the funding.

17 CHAIRMAN IGNATIUS: So your  
18 comments about funding really would apply to  
19 Class I, II and IV --

20 MR. SALTSMAN: That's correct.

21 CHAIRMAN IGNATIUS: -- for new  
22 projects.

23 MR. SALTSMAN: That's correct.

24 CHAIRMAN IGNATIUS: Do you have

1 any view about Class III, where there are  
2 existing projects?

3 MR. SALTSMAN: There is. You  
4 know, we, as well, could do some things over at  
5 Concord Steam to make ourselves qualify for  
6 Class III. But again, you know, it's -- if  
7 that target's moving around, we're going to  
8 back off of that.

9 CHAIRMAN IGNATIUS: Commissioner  
10 Scott.

11 CMSR. SCOTT: Thank you. So  
12 what do you suggest the Commission should do,  
13 then, 'cause obviously, as you're well aware,  
14 we have a small purview on the amount we can  
15 move around.

16 MR. SALTSMAN: It's just a  
17 comment on record. I can't -- you know, the  
18 solution is not -- is something that you're not  
19 allowed to visit I think in this. [Laughter]

20 But the solution would be to  
21 create an environment where we have to have  
22 long-term REC contracts and not year-to-year.  
23 That's the solution. And I don't know that  
24 anybody has the appetite to -- the political

1 appetite to make that happen.

2 CMSR. SCOTT: So let me ask it a  
3 different way: What the Commission did last  
4 year, and perhaps entertaining doing again this  
5 year, perhaps, depending on the feedback, does  
6 that hurt the situation?

7 MR. SALTSMAN: It does. Every  
8 time the rules change, anybody who's thinking  
9 about backing you, it makes them nervous  
10 because, look what just happened, you know. It  
11 does. It makes it difficult. That's one of  
12 the -- that's one of the inherent problems with  
13 the RPS, is as it keeps getting fiddled with,  
14 it makes any investor very, very nervous.

15 CMSR. SCOTT: Thank you.

16 CHAIRMAN IGNATIUS: Thank you.  
17 Then let's just go through the list. I won't  
18 try to further group people. The next person  
19 who expressed interest in speaking is Dan  
20 Bosley from NECEC.

21 MR. BOSLEY: Thank you very  
22 much, Madam Chair and members of your  
23 committee. For the record, my name is Dan  
24 Bosley. I'm the government relations executive

1 for the New England Clean Energy Council and  
2 the Clean Energy Business Association. And I  
3 do not have written remarks today, but I will  
4 submit them within the next few days. I got  
5 this at the end of yesterday.

6 So, the New England Council  
7 greatly appreciates the opportunity to  
8 provide comments at this public hearing. We  
9 do not believe that the PUC at this time has  
10 good cause to accelerate or delay the Class I  
11 or Class II requirements. The RPS does work.  
12 It's a state program that's part of a larger  
13 regional market, and as part of that regional  
14 market, it's finding its way. But as such,  
15 it does need time to develop. Part of the  
16 RPS program is the ACP payments. The ACP  
17 sends signals on demand for when and what  
18 type of generation is needed. And we need to  
19 let the market dictate that need, not to  
20 attempt to change. As we've heard, every  
21 change puts some uncertainty in the market.  
22 So, no market works exactly the way that it's  
23 planned in any given year, but you hope to  
24 come close. And the ACP allows the market to

1 inform investors of need. And to change that  
2 signal confuses the market. We believe that  
3 any action taken at this time sends the wrong  
4 signal to the market, and it does have a  
5 potential ripple effect through the entire  
6 New England states.

7 The mere fact of a hearing  
8 brought phone calls to our office, suggesting  
9 changes would -- has led to speculation that  
10 a delay or weakening of the RPS requirements  
11 would impact this market, and also leads to  
12 that uncertainty in this market. So, again,  
13 this sends a negative signal to the market,  
14 which relies on a strong, consistent policy  
15 for which to plan and invest. And without  
16 that clear and steady signal, the financing  
17 of projects becomes speculative at best and  
18 has a negative effect on investors.

19 Stakeholders have said, time  
20 and time again --

21 (Court Reporter interjects.)

22 Stakeholders have said, time  
23 and again, that they rely on a long-term,  
24 consistent market when making investment

1 decisions. And this was pointed out in a  
2 legislative study committee report as  
3 recently as November of last year. The study  
4 recommended that no further legislative  
5 changes be made to the market at that time.  
6 That was, I think, a wise decision. But  
7 legislative initiatives in this area must be  
8 allowed to develop as a policy over time and  
9 a road map for the market. Given the  
10 possible deleterious effect of the change in  
11 RPS requirements, coupled with evidence that  
12 the market is working -- I heard about this  
13 year, 50-percent ACP. But data from your  
14 reports in 2011 and 2012 indicate 19 percent  
15 and 17 percent Class I requirements were met  
16 with ACPs, respectively. So we request that  
17 the PUC not make any changes in the  
18 requirements this year.

19 We also believe that Class II  
20 requirements should be maintained. There are  
21 numerous studies that have been done up here  
22 concluding that there's tremendous potential  
23 for solar resource development. The total  
24 requirement for Class II calls for

1 30 megawatts by 2025. That's a very modest  
2 requirement. And, again, given the market  
3 potential and recent legislative initiatives  
4 that have yet to be voted on, but are being  
5 talked about, may enhance this market. So we  
6 don't believe at this time there's any reason  
7 to adjustment Class II markets.

8 The energy market is growing,  
9 and it is growing at a pace that outpaces  
10 most industrial sectors in New England. New  
11 Hampshire has taken steps to enhance and grow  
12 that market and should remain committed to  
13 that policy. In order to do that, the market  
14 needs to remain stable and consistent.

15 And, again, I thank you very  
16 much for the opportunity to testify today.

17 CHAIRMAN IGNATIUS: Well, thank  
18 you for coming.

19 Commissioner Scott.

20 CMSR. SCOTT: Thank you. Are  
21 your comments applicable to Class III also?

22 MR. BOSLEY: Well, Class III is  
23 different. Class III is -- you can have  
24 X-amount of capacity, and that doesn't grow by

1           its very definition. So, at some -- we're not  
2           commenting on Class III because we understand  
3           the difficulty that, once that capacity is  
4           taken and filled up, then you really have no --  
5           you really have nothing else. And I believe  
6           that you are required to look at that every  
7           year, or you're required to look at the market  
8           with Class III. So I leave it to you to make  
9           that decision. But eventually, you're not  
10          going to have any supply there.

11                           CMSR. SCOTT: Thank you.

12                           MR. BOSLEY: Thank you very  
13          much.

14                           CHAIRMAN IGNATIUS: The next  
15          person is Mr. Fitzgerald from DES. And a good  
16          point is to give people fair warning. The next  
17          person after him would be Kate Epsen.

18                           Mr. Fitzgerald.

19                           MR. FITZGERALD: Good morning.

20          I'm not sure why I didn't get fair warning.

21          [Laughter]

22                           Good morning. Mike Fitzgerald  
23          from the Department of Environmental  
24          Services. And I have with me, also, Joe

1 Fontaine. Joe assists in determinations of  
2 eligibility with the Department's  
3 requirements relative to facilities that  
4 generate RECs here in New Hampshire and works  
5 closely with the PUC Staff.

6 I want to say that I think  
7 that some of the issue has been significantly  
8 framed very well, and Commissioner Scott's  
9 questions have helped to frame that, in terms  
10 of the situation being a market situation,  
11 not an availability situation. And I just  
12 want to go back and remind everyone that the  
13 intent of the RPS, as it was originally  
14 brought, was to develop renewable energy in a  
15 regional marketplace, not just New Hampshire,  
16 but in a regional marketplace, and to also  
17 provide for the retention of certain  
18 renewable resources that might otherwise  
19 economically be impacted, and to retain that  
20 capacity of renewable power as well. And it  
21 was clearly known at the time that the RPS  
22 was brought forward that it was a regional  
23 market, and the early years there may not be  
24 certain availability and the marketplace

1 would have to develop to meet those  
2 requirements and that ACPs would be one form  
3 of compliance. And I want to emphasize that  
4 the ACP is not a penalty, but the ACP is what  
5 the legislature determined as a maximum  
6 premium that New Hampshire residents should  
7 pay for renewable energy here in the state.

8 That being said, I think we're  
9 all aware that there's been significant  
10 changes to the RPS over the years. And the  
11 impact, I think, has been spoken to  
12 eloquently by others. We are not market  
13 analysts, so we don't look at -- you know, we  
14 follow that information, but we certainly  
15 can't comment on it. But the instability, I  
16 think, is a problem. And I would like to  
17 just read one paragraph from our testimony  
18 relative to one of the bills that made rather  
19 Draconian changes in the legislative arena,  
20 House Bill 1443. And I think that, although  
21 it's been said clearly that you folks don't  
22 have the purview to make some of the  
23 adjustments that would be necessary to reach  
24 this, to address these issues, I think it's

1 important that they be framed well.

2 So, if I could, just quoting  
3 from our testimony: "The market for New  
4 Hampshire renewable energy credits is complex  
5 and highly influenced by the regional nature  
6 of the New England electric grid and  
7 different state RPS requirements. The  
8 current RPS statute includes obligations out  
9 to 2025, and energy supply projects require  
10 long-term planning and, therefore, benefit  
11 from long-term certainty in the market.  
12 Absent such certainty, developers' ability  
13 to" --

14 (Court Reporter interjects.)

15 MR. FITZGERALD: I'm sorry.  
16 We'll provide this in writing, too.

17 "Absent such certainty,  
18 developers' ability to secure financing  
19 supported by anticipated REC income is  
20 significantly impaired. DES feels that  
21 long-term market stability is the best  
22 solution for ensuring compliance with the  
23 RPS, as the goal of the program is to seek  
24 increased development of renewable resources

1 in the region. Future revisions should be  
2 based on sound market information and  
3 analysis and carefully consider long-term  
4 implications."

5 I want to point out, also,  
6 that when some of these legislative changes  
7 were made, rather Draconian ones a couple  
8 years ago, that dramatically lowered New  
9 Hampshire ACPs, I think one could argue that  
10 it was the intent of the legislature that  
11 only ACPs be paid. And I don't think that  
12 was explicitly stated. But the analysis the  
13 legislature undertook when making that change  
14 was an analysis based -- presented to them by  
15 the chairman of the committee at the time  
16 that was based solely on ACP payments. And  
17 his intent was to lower costs to New  
18 Hampshire consumers. And his analysis was  
19 based on just, you know, a theory that just  
20 ACPs would be paid because of lowering that  
21 cost.

22 So I think it should -- it  
23 certainly may not have been an explicit  
24 intent, but certainly underlying was an

1 analysis that said we'd rather pay lower  
2 ACPs. If RECs were available in New  
3 Hampshire today, they would be trading at \$40  
4 or \$50, whatever the regional market price is  
5 at; so, therefore, costs to New Hampshire  
6 consumers would be significantly higher.

7 So I would just urge the  
8 Commission to take this history into  
9 consideration in any decision that it makes  
10 and make sure that decisions that are made  
11 are in the long-term best interests of the  
12 RPS program and its long-term interests of  
13 additional development, again, realizing  
14 Class III is somewhat different. But there  
15 are changes going on in Class III in other  
16 states that I think the Commission needs to  
17 take consideration of that may make  
18 availability greater in the future.

19 And, again, I would just close  
20 by stating that this is a market instability  
21 problem, not an availability problem. And I  
22 thank you for taking my comments.

23 CHAIRMAN IGNATIUS: Thank you.  
24 Commissioner Scott, question?

1 CMSR. SCOTT: Thank you. As you  
2 heard Ms. Nixon, you know, the projection is up  
3 to \$22 million of ACPs to be paid for 2013.  
4 Should the Commission be concerned about what  
5 the amount is that goes into ACP? Is that a  
6 concern that we should be addressing?

7 MR. FITZGERALD: Well, again, I  
8 would reiterate that that's sort of a  
9 consequence of what the legislature decided to  
10 do. And they determined they would prefer that  
11 ACPs be paid and that the overall amount of  
12 funds that New Hampshire residents and  
13 consumers, electricity consumers, pay be lower  
14 than the opposite, where RECs would be  
15 developed. Should the Commission be concerned  
16 about that is more of a political question.  
17 And I would suggest that that question is  
18 probably a much bigger question, which is the  
19 potential misuse of funds or the  
20 misappropriation of dedicated funds. And  
21 that's bigger than all of us, I think here, in  
22 terms of our ability to answer that. But  
23 it's -- it would be very unfortunate if a large  
24 amount came in and that -- I think it would not

1 be a problem if \$22 million came in, assuming  
2 that the Commission made a wise choice in terms  
3 of the investment of that money. But if that  
4 money is legislatively appropriated for some  
5 other use, then it's certainly a problem. But  
6 I'm not sure that that's one that we can solve.

7 CMSR. SCOTT: You discussed  
8 legislative intent. My recollection is the  
9 last change the legislature made to the RPS law  
10 prior to that, the Commission had taken action  
11 to lower the percentages, as the statute  
12 allows. The legislature codified that, and the  
13 legislature left the language in that allows  
14 the Commission to change the percentages with  
15 cause. So, why would they leave that in and --  
16 under what circumstances would we change the  
17 RPS percentage?

18 MR. FITZGERALD: I think --  
19 well, we testified at the time that we felt  
20 that the RPS should have a component to it  
21 where there was a data-driven PUC review on a  
22 more frequent basis. I think you may recall  
23 when the original bill was passed, that it  
24 required reviews on a periodic basis, but they

1           were on the order of five or six years. We  
2           suggested that perhaps that might be changed to  
3           every year or every two years, but there'd be a  
4           significant, rigorous analysis and, again,  
5           taking into account the long-term intent of the  
6           RPS.

7                                So I think, as I said, the  
8           legislature did intend to lower costs, and  
9           they effectively did so by reducing the ACP  
10          and lowering the value of -- consequently  
11          lowering the value of RECs in the New  
12          Hampshire -- for New Hampshire compliance.  
13          As to why they would leave those provisions  
14          in or not adjust them, we requested that they  
15          make adjustments to that at the time, and  
16          they declined to do so. I can't speak to  
17          why.

18                                CMSR. SCOTT: Thank you. That's  
19          all I have.

20                                CHAIRMAN IGNATIUS: Thank you.  
21                                You had said that there were  
22          changes coming in other states that may make  
23          availability of Class III RECs greater. Is  
24          that something that you can discuss or you

1 know that other people are planning to  
2 address? That would be fine as well.

3 MR. FITZGERALD: I think there  
4 may be others here who are able to address that  
5 probably better than --

6 CHAIRMAN IGNATIUS: I see at  
7 least one nod. So that's -- all right. We'll  
8 put it off then.

9 MR. FITZGERALD: Yeah, we're not  
10 analysts.

11 CHAIRMAN IGNATIUS: Then the  
12 next speaker would be Kate Epsen, and following  
13 that would be Charlie Niebling.

14 MS EPSEN: Good morning. I'm  
15 Kate Epsen. I'm the executive director of the  
16 New Hampshire Sustainable Energy Association.  
17 And for full disclosure, I was also an analyst  
18 in the Sustainable Energy Division of the PUC  
19 here. So, hello.

20 This letter is also co-signed  
21 and enhanced by the Nature Conservancy, the  
22 Conservation Law Foundation, the New  
23 Hampshire CleanTech Council and IBEW 490; so  
24 it's business, labor and the environmental

1 constituency here speaking.

2 So, we also believe that the Commission  
3 does not have good cause to accelerate or  
4 delay the Class I or Class II or Class IV RPS  
5 requirements. As others have stated, Class  
6 III is somewhat a special class. And my  
7 comments mostly pertain to Class I and Class  
8 II because that is the new generation under  
9 the RPS.

10 So, the RPS is working. New resource  
11 supply does not come on in a manner that  
12 always perfectly mirrors the annual state-set  
13 percentage. It's a lumpy supply-and-demand  
14 market. The ACP compliance is RPS  
15 compliance, as in the statute and the rules,  
16 and it never indicates a program failure,  
17 especially if it happens sporadically and not  
18 consistently or at an increasing rate.

19 Just as a side note, speaking to this  
20 legislative intent discussion, much of the  
21 New Hampshire RPS was based on a best  
22 practices study back in 2007. And one of the  
23 recommendations back in that study was to  
24 make market adjustments when they are

1 adjustments to solve a crisis and not when  
2 they're market manipulations. So, for  
3 example: If you're going to adjust a class  
4 requirement, you should have a metric to base  
5 that against, such as that class had been met  
6 with ACP compliance rather than REC  
7 compliance, and to the extent of maybe 30 to  
8 50 percent for three years consecutively, not  
9 that it happened on a one-off year, and not  
10 when most of the year's compliances are  
11 already over and some entities that need to  
12 comply have already planned for that year and  
13 then rules could change. And we have not  
14 even seen fourth quarter trading yet for 2013  
15 RECs.

16 So, REC prices and ACP compliance send  
17 the market signals as to when and what types  
18 of new generation need to be filled and then  
19 provide this revenue stream through the  
20 Renewable Energy Fund to capitalize the  
21 development of new projects that will  
22 generate RECs.

23 So, the Renewable Energy Fund is an  
24 important piece here because we all know

1           that's where the ACPs go. And if a lot of  
2           ACPs go into that fund, that fund is  
3           specifically set up to be used to then  
4           develop the generation that could add new  
5           RECs to the market. And clearly, there was  
6           an enormous raid on that fund last year. So  
7           that set up a problem for less investment  
8           available for those new projects. And that  
9           fund needs to be very carefully steered to  
10          meet the purpose of the RPS on an ongoing  
11          basis.

12                 So, we believe that issuing this notice  
13           for any RPS resource class on an unscheduled  
14           annual basis sends very problematic market  
15           signals that New Hampshire is considering  
16           delaying or weakening its RPS. This is very  
17           inappropriate, considering that the RPS is a  
18           market-based program, based on broad  
19           stakeholder support and extensive economic  
20           analysis. And so I footnoted the economic  
21           impact study that was done in 2007, which  
22           found a lot of net state benefits, in terms  
23           of new full-time jobs and new state revenue  
24           annually through 2025. It's also

1 state-program embedded within a regional  
2 market. Undue interference with this market,  
3 such as changing the rules of the game midway  
4 through a compliance year or for the  
5 following compliance year, increases risk for  
6 all projects, and regulatory risk, and  
7 undermines the program integrity, which then  
8 discourages project development.

9 Stakeholders have long requested  
10 numerous PUC hearings and numerous  
11 legislative hearings for policy stability and  
12 continuity, which was also reinforced in that  
13 legislative study committee report already  
14 referenced, which came out of House Bill 542,  
15 and recommended no further legislation at the  
16 time.

17 The Commission should act as a regulator  
18 in a similar manner and allow the legislative  
19 changes of 2012 and 2013 to take effect in  
20 the market without altering Class I or Class  
21 II requirements in 2014, 2013 or 2015.

22 We also looked at the past two years of  
23 the Commission's RPS compliance report that  
24 it has to deliver to the legislature, and

1 that did not show any sort of crisis in  
2 compliance in Class I or Class II. Last  
3 year, 17 percent of the Class I requirement  
4 was met with ACPs, and the previous year,  
5 19 percent of that Class I requirement was  
6 met with ACPs. So, that actually shows a  
7 downward trend in ACP compliance rather than  
8 an upward trend using ACP compliance.

9 The Class II requirements should also be  
10 maintained, strengthened. New Hampshire's  
11 Legislature and the PUC have enacted rules on  
12 group net metering, which is a tool that will  
13 likely bring on significant new Class II  
14 capacity. We should note that the statewide  
15 net metering cap is 50 megawatts, and the  
16 Class II requirement by 2025, depending on  
17 some capacity factors, needs about  
18 30 megawatts. So, that's within the realm of  
19 what we can develop. And it's very modest  
20 compared to other regions. Massachusetts has  
21 a goal of 1600 megawatts for that type of  
22 class. And Vermont, which doesn't even have  
23 an RPS but has some other enabling policies,  
24 has much higher amounts of solar electric

1 capacity and much smaller population numbers,  
2 if we want to do it on a per capita basis.

3 In the 2011 RPS review that the  
4 Commission conducted over many months, with  
5 many stakeholder input -- much stakeholder  
6 input, the Commission specifically  
7 recommended in that report to maintain the  
8 existing class obligations in favor of policy  
9 consistency and predictability for the  
10 renewable energy industry, particularly given  
11 the inability of New Hampshire to  
12 significantly affect the regional REC market  
13 and the potential for increased rate impacts  
14 if those class obligations were to increase.

15 So, several people have already  
16 discussed how the ACP levels in each state  
17 affects supply and demand of RECS in each  
18 state's compliance market.

19 I'd like to read a quote from the  
20 "Avoided Energy Supply Costs" in New England  
21 2013 report that's done by Synapse Energy.

22 "The rate at which the ACP is set, which  
23 is not uniform across New England, will  
24 influence the manner in which compliance is

1           achieved. All else being equal -- for  
2           example, in the absence of bilateral  
3           contracts or asset ownership which would  
4           dictate otherwise -- states with lower ACPs,  
5           such as Connecticut and New Hampshire, will  
6           tend to receive more ACPs than REC compliance  
7           during periods of shortage, while RECs flow  
8           to markets where the ACP and REC prices are  
9           allowed to go higher.

10           "The Class I renewable energy ACPs in  
11           Massachusetts, Rhode Island and Maine are  
12           harmonized. For those states, the 2013 ACP  
13           is \$65 per megawatt hour and escalates with  
14           the CPI thereafter. New Hampshire parted  
15           company from this group and now has an ACP of  
16           \$55 per megawatt hour in 2013, with an annual  
17           escalation of only half the CPI."

18           So I should note that the firm that does  
19           the renewable -- the RPS sections for the  
20           Synapse report, which is done annually, they  
21           have a very close finger on the pulse of  
22           these regional REC markets. And having  
23           spoken with them, they have said that the  
24           supply and demand balances for the RPS

1 regional market is very closely matched. And  
2 that goes against what we have heard from a  
3 couple of the utilities today. But they  
4 have -- they track all of the markets in all  
5 of the states and all of the classes. And  
6 they said that supply is coming back up to  
7 meet demand, and there shouldn't be extreme  
8 shortages in any future years. So, I don't  
9 quite know what's going on. I don't  
10 participate in the utility RFP process.

11 So, New Hampshire has also a much lower  
12 rate for its Class II ACP than other states.  
13 And, of course, we know the legislature made  
14 that policy decision somewhat arbitrarily and  
15 set that rate lower than neighboring states;  
16 as a result, generators have sold into the  
17 other states at higher costs. And this is a  
18 natural outcome, given the market-based  
19 dynamics we've discussed already.

20 So, the Commission cannot alter the ACP  
21 rates, clearly. That's a legislative  
22 prerogative. However, it can and it should  
23 maintain the existing Class I and Class II  
24 requirements, based on both market data shown

1 and also the theory behind the RPS program  
2 and all the supporting reports that we've  
3 seen on it. Thank you.

4 CHAIRMAN IGNATIUS: Thank you.  
5 Questions? Commissioner Scott.

6 CMSR. SCOTT: Thank you for your  
7 testimony. Do you or the group you're  
8 representing have any position on moving  
9 forward on Class III recommendations?

10 MS EPSEN: Class III, as we've  
11 discussed, is a special class, and it can't  
12 really have new capacity added. I think that,  
13 within reason, if it's determined that there's  
14 some changes going on in the market, keeping it  
15 consistent with what's been set has prudence to  
16 it, because if there are ACPs that are going  
17 into that Renewable Energy Fund, that can bring  
18 new supply for other classes online. It can't  
19 correct the supply situation in Class III, but  
20 it does speak to the overall purpose of the RPS  
21 and can enhance development in all of the other  
22 classes. So, there's no market problem with  
23 ACPs coming from Class III. And I'm going to  
24 let, though, the other speakers that have a

1 better sense of the regional market for  
2 Class III speak to whether or not the 1.5 and  
3 3 percent should be adjusted very specifically.

4 Thank you.

5 CHAIRMAN IGNATIUS: Thank you.  
6 And it's nice to see you again.

7 All right. Our next person on  
8 the list is Mr. Niebling. And the speaker  
9 after that would be Mr. Olson.

10 MR. NIEBLING: Good morning,  
11 Commissioners. My name is Charlie Niebling. I  
12 am with the consulting firm, Innovative Natural  
13 Resource Solutions. And I'll limit my brief  
14 remarks to the Class I thermal subclass and  
15 simply request that the Commission refrain from  
16 any inclination to manipulate the percentages  
17 in Class I thermal. That was done by order  
18 roughly this time last year. The  
19 implementation was delayed to 2014. We're  
20 still waiting for issuance of administrative  
21 rules to implement the provisions of the  
22 addition of thermal to the RPS and hope that  
23 that will -- that the draft rule will be filed  
24 soon in the rulemaking register so that we can

1 initiate the public input process.

2           There's a lot of project  
3 development, particularly in the biomass  
4 realm with respect to thermal, that is to  
5 varying degrees predicated on the existence  
6 of this incentive. And messing with the  
7 percentages can destabilize that, as has been  
8 stated by others. There are some rather  
9 creative finance concepts developing around  
10 the capitalization of future REC revenue  
11 streams with upfront project money that can  
12 help to finance projects, rather than  
13 essentially turning a performance incentive  
14 into a capital incentive with private  
15 capital. So there's private capital that is  
16 mobilizing to take advantage of the revenue  
17 stream generated by thermal RECs. You are in  
18 control with the extent to which the thermal  
19 class is met with ACPs or not by the degree  
20 of complexity that you ultimately adopt in  
21 the rules to implement that provision. The  
22 more complex and costly to implement, the  
23 less likely projects will be to develop and  
24 take advantage of it and meet the statutory

1 requirements.

2 And lastly, I certainly  
3 understand the political dynamic and issues  
4 around a burgeoning Renewable Energy Fund. I  
5 think if more people in this room had pulled  
6 together in working with the PUC and  
7 developed a creative way to deploy the  
8 surplus that had accrued, or the revenues  
9 that had accrued to that fund last year, or a  
10 year and a half ago now, we might have been  
11 able to avoid the raid that the legislature  
12 made on that fund to fill the budget hole.  
13 But no one stepped forward with a truly  
14 creative, visionary idea on how to use those  
15 funds to most cost-effectively meet the  
16 obligations of the statute. There's a lot of  
17 smart people in this room, and I think  
18 working with the PUC and its Staff, we could  
19 develop some rather creative ideas around  
20 that, that might be attractive to the  
21 legislature and discourage them from their  
22 predilection to raid funds such as this. So  
23 I prefer to view that as an opportunity, not  
24 as a liability. But I certainly understand

1 the political dynamics around that. So,  
2 thank you very much.

3 CHAIRMAN IGNATIUS: Thank you.  
4 Commissioner Scott, questions?

5 CMSR. SCOTT: Thank you. Your  
6 comment on the thermal draft rules, are you  
7 suggesting that, as the draft currently exists,  
8 they're so complex as to cause people to pay  
9 ACPs rather than to generate RECs?

10 MR. NIEBLING: I think they may  
11 really discourage a lot of smaller or  
12 medium-size projects, which in total could add  
13 up to a lot of megawatt hours of thermal energy  
14 in this state which could help the PUC, help  
15 all of us meet the obligation, rather small  
16 obligation that was set forth by the  
17 legislature a couple years ago.

18 CMSR. SCOTT: Thank you.

19 CHAIRMAN IGNATIUS: Thank you  
20 very much.

21 MR. NIEBLING: Thank you.

22 CHAIRMAN IGNATIUS: Next we have  
23 Robert Olson. And following him will be -- I'm  
24 going to get this wrong -- is it Nathan Hebel?

1 MR. HEBEL: Hebel.

2 CHAIRMAN IGNATIUS: Hebel.

3 Okay. Thank you.

4 Mr. Olson, do you have a mic  
5 at your table?

6 MR. OLSON: Yes, I do.

7 CHAIRMAN IGNATIUS: Great.

8 MR. OLSON: And I believe I've  
9 turned it on.

10 Good morning. For the record, I'm  
11 Robert Olson, and I represent Bridgewater  
12 Power Company; Pinetree Power, Inc., located  
13 in Bethlehem; Pinetree Power, Tamworth;  
14 Springfield Power; Whitefield Power & Light,  
15 and Indeck Energy, Alexandria. Those six  
16 facilities are the bulk of the Class III-  
17 eligible facilities in the state of New  
18 Hampshire. There are also other potentially  
19 eligible Class III facilities. And I know  
20 the Commission has certified a number of  
21 landfill facilities that also are statutorily  
22 capable of providing Class III RECs. In  
23 addition to that, the Commission recently  
24 conditionally certified a 20-megawatt

1 facility located in Ryegate, Vermont, a  
2 wood-fired power plant, as Class  
3 III-eligible. And the Commission has  
4 certified a 17-megawatt, wood-fired facility  
5 located in Fitchburg, Massachusetts as Class  
6 III-eligible. Collectively, the six  
7 facilities I represent, and the remaining two  
8 I mentioned, are about 134 megawatts of  
9 energy. If we were to look at that in terms  
10 of a REC supply, if they were all -- if they  
11 were all eligible and they were all selling  
12 into Class III, and we assume that they  
13 operate 90 percent of the hours of the year,  
14 then we'd produce roughly 1 million RECs. If  
15 the statewide load were 11 million, then  
16 you'd have a REC demand in Class III -- if  
17 you were looking at the 8 percent number,  
18 which I believe is the number in the year  
19 2015, you'd have a REC demand of about  
20 880,000. So you'd have an over-supply if  
21 that were the only market and that were the  
22 only set of RECs. If the statewide load were  
23 12 million, just to give you some sense of  
24 the sensitivity, then the demand at 8 percent

1 for RECs would be 960,000, and they would  
2 still be producing about a million. So you'd  
3 have an over-supply. And we're not counting  
4 the availability of any landfill methane  
5 RECs. So I want to just do that to set the  
6 stage on what a supply and demand would look  
7 like if we only had a New Hampshire market.

8 I next want to move to the question of  
9 should the Commission make adjustments in the  
10 Class III market for the years 2013 and 2014.

11 The Commission actually looked at the  
12 year 2013 in Docket DE 13-021. My clients  
13 filed comments in that docket. And in those  
14 comments we said, and I'm quoting from the  
15 comments, "It was reasonable to assume that  
16 these facilities" -- that is, my clients --  
17 "are not likely to produce significant, if  
18 any, Class III RECs for sale in the 2013 to  
19 2014 time frame due to the higher alternative  
20 compliance price resulting in the renewable  
21 energy certificates going to the Connecticut  
22 market compared to the New Hampshire market."

23 The Connecticut market ACP is  
24 statutorily set at \$55. The New Hampshire

1 ACP in 2013 -- and this is from the  
2 Sustainable Energy Division's web site -- is  
3 \$31.50, and in 2014 is \$31.93. That  
4 disparity brings the RECs from that  
5 134 megawatts to the Connecticut market as  
6 opposed to the New Hampshire market.

7 In Docket 13-021, we informed the  
8 Commission that we thought that would be the  
9 case in '13 and '14, and in fact, that has  
10 been the case. So we don't have a problem  
11 with further adjustments to the year 2013.  
12 As we indicated, we supported the decreased  
13 to 1.5 percent over the legislature for 2013,  
14 and we also supported the decrease in 2014  
15 over the legislature to 3 percent. In Docket  
16 13-021, the Commission didn't want to vacate  
17 the 2014 adjustment.

18 Next I'd like to address the question of  
19 should adjustments be made to Class III in  
20 the year 2015. And here I think that that  
21 would be premature at this time because there  
22 are changes in the marketplace that could  
23 affect where that 134 megawatts' worth of  
24 RECs might go in the 2015 year. And this is

1 based on events taking place in two  
2 legislatures. In the 2013 legislative  
3 session, the New Hampshire General Court  
4 increased the Class III ACP to \$45 for the  
5 year 2015. It did some other things in that  
6 piece of legislation, but for present  
7 purposes I'm focusing on the fact that the  
8 \$31.93 2014 ACP will move to \$45 in 2015.  
9 The idea was to incent the New Hampshire  
10 facilities to produce their RECs in the New  
11 Hampshire marketplace, keeping in mind that  
12 the Connecticut ACP was still at \$55, and you  
13 would assume that those facilities would go  
14 to Connecticut in 2015 to pursue the \$55 ACP  
15 and the resulting presumptively higher REC  
16 prices that it produces.

17 That's a good presumption, except that  
18 in the 2013 legislative session, the  
19 Connecticut legislature made a change to its  
20 RPS law. And what Connecticut did was, in  
21 Section V of Public Law 13-303, stated the  
22 following: "On or before January 1, 2014,  
23 the Commissioner of Energy and Environmental  
24 Protection, affectionately known as the

1 'Commissioner of DEEP,' will establish a  
2 schedule to commence on January 1, 2015, for  
3 assigning a gradually reduced renewable  
4 energy credit value to all biomass or  
5 landfill methane gas facilities that qualify  
6 as Class I renewable energy sources."

7 And here I would stop for a moment and  
8 point out that the 134 megawatts that I made  
9 reference to also, with the exception of one  
10 of them who has a pending certification  
11 request in, all of them qualify as Class I  
12 Connecticut facilities. So they really have  
13 two markets, only two markets of  
14 significance. They're either in Connecticut  
15 Class I or they're in New Hampshire Class  
16 III. All of them qualify in Class I, with  
17 the exception of the pending certification --  
18 the conditional certification on Ryegate, New  
19 Hampshire [sic]. Other than that, they would  
20 all potentially -- they all qualify as Class  
21 III New Hampshire, with the exception that  
22 one of those units is presently working on an  
23 alternative --

24 (Court Reporter interjects.)

1 MR. OLSON: -- working on an  
2 alternative particulate matter compliance plan  
3 that, if successful with the New Hampshire DES,  
4 will allow it to participate in Class III,  
5 subject to Commission approval.

6 So what we have is New  
7 Hampshire has raised its ACP in 2015 to  
8 incent those facilities to sell into the New  
9 Hampshire market, and Connecticut has taken  
10 action to produce what we refer to as a  
11 "phase-down" of the REC value in Connecticut  
12 that would commence in 2015. The original  
13 schedule that the Commissioner of Energy and  
14 Environmental Protection published called for  
15 a draft of that phase-down in early January  
16 of 2014, followed by a 60-day comment period,  
17 and a final in the April -- in the March to  
18 April 2014 time period. As of this date,  
19 that schedule has not been adhered to. They  
20 have not issued the draft of the phase-down,  
21 which would take place in the context of  
22 their Integrated Resource Plan. So they have  
23 not issued a draft Integrated Resource Plan,  
24 nor a draft of the phase-down. It is the

1 absence of that phase-down schedule in a  
2 final form that creates uncertainty in the  
3 2015 marketplace. The REC values in  
4 Connecticut for that 134 megawatts are  
5 unknown at this point until that phase-down  
6 schedule is completed. So, for example: If  
7 they drop the \$55 ACP value for a REC to,  
8 say, \$25, well, you could expect that those  
9 facilities would be selling into the New  
10 Hampshire market at \$45.

11 So, as Commissioner Scott had  
12 pointed out I think in his questions, it's  
13 price that drives the RECs. It's not, as  
14 many people have said, it's not a problem  
15 that there are no RECs. I think the  
16 spokesperson for Unitil mentioned, you know,  
17 "We went out to the brokers, and we asked  
18 them would RECs be available," and they got  
19 the answer back, "No, there are no RECs."  
20 Well, that's in the context of the fact that  
21 the RECs have been sold in Connecticut.  
22 There's a discrete amount that gets produced,  
23 but that discrete amount is more than capable  
24 of satisfying New Hampshire if there were no

1 Connecticut market. So it's an availability  
2 issue. And availability in New Hampshire is  
3 driven by the fact that our legislature has  
4 set the price below the price of the other  
5 competing market, and so they go there.

6 So it's unclear what amount of  
7 wood-fired power plant RECs, or RECs from the  
8 other two facilities I mentioned, Ryegate and  
9 Fitchburg, would seek to be sold in either  
10 the Class I Connecticut market or the Class  
11 III market in 2015.

12 Given that, my recommendation  
13 is that you defer any inquiry into the 2015  
14 year for Class III adjustments until, at a  
15 minimum, March to April of next year, which  
16 seems to be a consistent schedule that gives  
17 us adequate time to take a look and see what  
18 did Connecticut do, what has New Hampshire  
19 done, what does the market look like, and  
20 then, if necessary, adjustments could be made  
21 at that point. So it seems that that would  
22 provide the time for the market to resolve  
23 itself and still provide adequate time for  
24 the Commission to exercise its authority

1 under the RPS law to adjust that percentage  
2 in 2015, if need be.

3 I also want to point out --

4 CHAIRMAN IGNATIUS: On that  
5 issue, before you go on, if I may.

6 MR. OLSON: Sure.

7 CHAIRMAN IGNATIUS: So it sounds  
8 like you disagree with -- you have a different  
9 take than some other speakers who said this  
10 year-to-year, last-minute adjusting makes it  
11 even more difficult and that more long-term  
12 decision-making and purchasing would be better.  
13 Sounds like you're saying, no, deferring by  
14 April, May -- or March or April, there's enough  
15 time to make the adjustment, if needed.

16 MR. OLSON: The answer is yes.  
17 There is a difference in what I'm saying  
18 compared to the other speakers because I  
19 recognize that Class III is in a different  
20 situation with its discrete amount of RECs.  
21 And so, long-term contracts, while we would  
22 favor those for existing facilities, we've been  
23 living in the spot market and, to some extent,  
24 you know, we can sell forward a couple of years

1 on REC prices. And so we are able to do that  
2 because our capital investment is very  
3 different from the capital investment  
4 associated with a new facility. To be in both  
5 the New Hampshire and Connecticut market, we  
6 need to, for example, put in an RSCR to bring  
7 the emissions of nitrogen oxides down. That's  
8 the standard in both markets. To do that is  
9 somewhere... and please don't hold me to these  
10 numbers. It's a range of somewhere around six  
11 to eight million dollars of capital to make  
12 that kind of investment, plus the off-line time  
13 to actually implement it from a construction  
14 standpoint. So that's very different than  
15 saying you want to build a hypothetical  
16 70-megawatt wood-fired power plant that's going  
17 to cost over, you know, a hundred billion  
18 dollars. That type of facility won't be built  
19 unless there's a long-term contract that  
20 provides certainty and support of the debt  
21 service on the facility.

22 So, making the change is a  
23 recognition of the reality in 2015. Now, as  
24 we get beyond 2015, if the markets are

1 resolved and there's certainty there, so that  
2 we have a sense of where RECs are moving and  
3 prices have come together, so we have more  
4 liquidity between the New Hampshire REC and  
5 Connecticut REC market, then I might look at  
6 it differently and say, no, we don't need to  
7 be making those kind of changes. So I think  
8 it's a function of where we are in time right  
9 now.

10 CHAIRMAN IGNATIUS: Thank you.  
11 Please continue.

12 MR. OLSON: One other point  
13 about the changes made in the Connecticut RPS.

14 The Connecticut RPS also gave  
15 the Commissioner of DEEP the authority to  
16 issue RFPs to procure REC supply. And this  
17 is Sections VI and VIII of that statute. The  
18 Commission has gone out for REC supply under  
19 Section VI and VIII. One section pertains to  
20 supply from new facilities, one section  
21 pertains to supply that could include  
22 existing facilities. Under the new facility  
23 RFP, they made two awards: One to a  
24 250-megawatt wind farm in Maine and one to a

1 20-megawatt solar project in Connecticut.  
2 Under the existing RFP, they also made three  
3 awards: One of those went to Schiller  
4 Station Unit 5 for 21 megawatts worth of  
5 RECs; the other two awards went to pieces or  
6 slices of a system associated with the  
7 Burlington, Vermont wood facility. And so  
8 the question is: Will those affect the REC  
9 supply in Connecticut in the 2015 year,  
10 because that's the year I'm discussing in my  
11 present remarks. And the answer is no. And  
12 the reason is that the wind farm in Maine and  
13 the solar project in Connecticut have an  
14 estimated online date of December 30, 2016.  
15 So they come into the market past the 2015  
16 year we're talking about. The Schiller  
17 contract has a commencement date of  
18 January 1, 2016. So it's not a 2015 supply  
19 in Connecticut under the RFP. It might sell  
20 RECs like anyone else would into the  
21 Connecticut market in 2015, depending on how  
22 the phase-down operates. The two Vermont  
23 projects, the two have 2015 online dates. I  
24 don't think they'll have any appreciable

1 impact on the market in 2015 because the  
2 first piece was owned by Burlington Electric  
3 Company, and it was for RECs associated with  
4 5.4 megawatts. That contract will have a  
5 start date of January 1, 2015. The second  
6 piece of the Burlington plant was for RECs  
7 owned by Green Mountain Power and associated  
8 with 2.7 megawatts of the facility, and that  
9 will have a start date under its contract of  
10 January 1 -- excuse me -- of August 1, 2015.  
11 Given the small size, and in the case of the  
12 latter one, the online date that's deep into  
13 the year, and given the fact that the  
14 Connecticut market calls for RECs equal to  
15 12.5 percent, at a minimum, of the load in  
16 2015, I don't think those facilities will  
17 have an appreciable impact.

18 Next I want to turn to the question of  
19 should the Commission make adjustments in the  
20 Class I market for the 2015 year. Again, my  
21 remarks are the same -- that is, the  
22 Commission ought to defer that and take no  
23 action. I have one facility, the Alexandria  
24 facility, that is certified as both Class I

1 Connecticut and Class I New Hampshire, and it  
2 has sold some Class I New Hampshire RECs in  
3 the 2014 and 2015 period. So, to the extent  
4 you do make adjustments in 2014 in Class I,  
5 I'd ask you to be mindful of not upsetting  
6 transactions that have already occurred, and  
7 make sure the percentage is adequate for  
8 that, which I assume you can do. But on the  
9 2015, I would say let's wait and see what the  
10 market looks like and see where Connecticut  
11 goes.

12 That concludes my remarks. Thank you.

13 CHAIRMAN IGNATIUS: Thank you.  
14 Commissioner Scott.

15 CMSR. SCOTT: Thank you for your  
16 testimony. That was helpful, I think. I want  
17 to push you a little bit more. If I wrote down  
18 what you said, you said your clients would be  
19 okay with adjustments to Class III. And I'm  
20 glad to hear that, if we did that. Do you feel  
21 it's advisable to adjust the Class III  
22 percentage?

23 MR. OLSON: First, let me  
24 clarify so I make sure we're talking about the

1 same adjustment. We're talking 2013 and 2014.

2 CMSR. SCOTT: Correct. I  
3 understood 2015, what you were saying.

4 MR. OLSON: Okay. So, 2013 is  
5 at 1.5 percent. I can -- your question to me,  
6 as I understand it, is: We're okay with an  
7 adjustment. Do you think it's advisable to  
8 make the adjustment? I think 1.5 is on the low  
9 side. I did hear Ms. Nixon say that we could  
10 still produce about 5 million. So I think,  
11 were I sitting in your chair, I would look at  
12 what's the total effect of what I'm doing in  
13 terms of the ACP funds. If you need to adjust  
14 the 1.5 because you're going to have 22  
15 million, how low do you adjust the 1.5, and how  
16 much of an effect does it have on the 22  
17 million? If it's *di minimus*, I might not  
18 adjust it because you want to have some value  
19 in the fund to pursue the public policy that  
20 the fund set up to pursue. If you adjust it  
21 below 1.5, it sounds like you still have  
22 adequate money. So you could do that. The  
23 2014 was legislatively set at 3 percent.  
24 Again, as I indicated, we're in Connecticut in



1           you mentioned -- I think you said you had a  
2           client that was working on an alternative  
3           particulate plan in order to qualify for Class  
4           III in New Hampshire. Can you give me an idea,  
5           you know, in an ideal world, what's left out  
6           there for Class III, megawatt-wise, that could,  
7           hypothetically speaking, put additional  
8           controls on to meet Class III requirements?

9                       MR. OLSON: I think the bulk of  
10           the Class III is the 134 megawatts that I made  
11           reference to, because the two other larger wood  
12           plants in New England, the Ryegate facility and  
13           the Fitchburg facility, are now included in my  
14           134-megawatt number. There are also facilities  
15           in the state of New York that I believe are  
16           wood-fired and a lot of landfill gas methane,  
17           and landfill gas methane in Rhode Island that  
18           come in. So, with respect to wood, I think 134  
19           megawatts is the ballpark. But the landfill  
20           gas can be quite significant. And I just don't  
21           know where they come out in terms of how they  
22           view the regional market. Again, it's purely  
23           ACP-driven. And that's the problem I think Ms.  
24           Epsen made reference to.

1                   When New Hampshire first put  
2                   its RPS in place back in 2007, Class I New  
3                   Hampshire was pegged to the Class I  
4                   Massachusetts ACP. When the legislature made  
5                   the changes that Ms. Epsen made reference to,  
6                   to reduce the New Hampshire Class I ACP, you  
7                   start to see the same problem that Class III  
8                   faces, because Class III is a lower number  
9                   than Connecticut. So if a New Hampshire  
10                  Class I is lower than Massachusetts, if you  
11                  also qualify in Massachusetts, that's where  
12                  those facilities go. So it is purely an  
13                  ACP-driven issue.

14                   CMSR. SCOTT: Thank you.

15                   CHAIRMAN IGNATIUS: A couple of  
16                  questions, Mr. Olson. You talked a lot about  
17                  your clients selling into Connecticut. Are  
18                  there other states that you also sell into?

19                   MR. OLSON: Massachusetts has a  
20                  Class I and a Class II. We do not qualify as  
21                  existing facilities for Class I. Class II we  
22                  might have qualified for, but the ACP was set  
23                  by the Department of Energy Resources at below  
24                  the New Hampshire ACP, so it was not a viable

1 market. And since that time, Massachusetts has  
2 issued a moratorium with respect to wood  
3 facilities participating in their RPS. We  
4 don't view the part of the Maine market that's  
5 available as economically viable. The Rhode  
6 Island market is generally not available to  
7 existing wood-fired facilities, with one  
8 exception that I'm aware of, and that is the  
9 Indeck-Alexandria facility, because it had been  
10 off-line for -- well, since 1993, '94, until  
11 sometime in the 2000, qualified in the Rhode  
12 Island market. So it's capable of selling as  
13 Connecticut Class I, New Hampshire Class I and  
14 in the Rhode Island market.

15 CHAIRMAN IGNATIUS: Thank you.

16 And when you described the over-supply that  
17 would occur if all of the RECs that qualified  
18 for Class III in New Hampshire sold in New  
19 Hampshire, do you have any expectation that  
20 you, in fact, would only sell in New Hampshire?

21 MR. OLSON: I gave you the  
22 examples just to show how supply would line up  
23 with the percentages. The question of whether  
24 that would ever occur depends on what happens

1 to the ACP in New Hampshire and Connecticut.  
2 And that's what the 2015 market uncertainty is  
3 about. So if the New Hampshire ACP at \$45  
4 turns out to be higher over time because of the  
5 phase-down that Connecticut enacts, then I  
6 would expect all those facilities would look to  
7 the New Hampshire market. If there's  
8 equilibrium between the two markets, then, you  
9 know, that's harder to say. But I think those  
10 are the facts that in the future will allow us  
11 to make reasoned judgments about adjustments.

12 CHAIRMAN IGNATIUS: Thank you.  
13 Appreciate your testimony.

14 Next speaker is Mr. Hebel, and  
15 he will be followed by Mr. Stock.

16 MR. HEBEL: Thank you. Good  
17 morning. My name is Nathan Hebel. I'm the  
18 manager of energy trading for ReEnergy. If you  
19 do not know, ReEnergy is a power producer  
20 through biomass as well. We have five  
21 facilities in New England, three in New York  
22 and one in North Carolina. Part of my  
23 responsibility is to manage the sale of RECs  
24 for our facilities. And we are most active in

1 Connecticut, Maine and also New York. So I  
2 don't want to take up too much time because I  
3 would mostly be echoing a lot of the comments  
4 you've heard already today. But I do want to  
5 underline a few differences and maybe give you  
6 a little more context, since I do -- I do  
7 interact in the markets specifically, not for  
8 north -- not for New Hampshire, but I do talk  
9 to the parties who do interact there.

10 Let's start with Class III first. And I  
11 agree that it's a special case. And I also  
12 agree with what most people said here today,  
13 which is in 2013 there are no material  
14 volumes of RECs available because they have  
15 gone to other markets. So, while I also  
16 agree that our preference is that there  
17 should be no changes to RPS targets because  
18 it sends a poor signal to the market for  
19 planning and investment, be that as it may, I  
20 know you have other considerations you need  
21 to take into account. So, for 2013, we also  
22 have no problem with the Commission doing its  
23 due diligence to see if a revision is  
24 required.

1           For 2014 and 2015, we would stipulate  
2           that it's unclear what the volume of RECs  
3           will be for New Hampshire Class III. And the  
4           reason I say that is because there's been a  
5           lot of discussion today about how it's not an  
6           availability issue, it's a market issue. And  
7           the market issue is often conflated with the  
8           differences in ACPs. And the difference in  
9           ACP is very important, particularly in the  
10          world we see today, which is a shortage of  
11          RECs across all states in New England. I  
12          don't know for sure, because I don't buy RECs  
13          as a load-serving entity. But I would  
14          suspect in most New England states there will  
15          be ACPs paid for 2013. It won't be just in  
16          New Hampshire.

17                 So, given we're in a current situation  
18                 of shortage, it's easy to say, well, this ACP  
19                 is higher than that, so who's going to get  
20                 which RECs, which is fine for the 2013 market  
21                 which ends in 45 days. However, for 2014 and  
22                 2015, there's quite a bit of uncertainty in  
23                 the market on what the availability and what  
24                 the final price will be. And I've heard Mr.

1 Olson speak to the uncertainties in 2015 and  
2 beyond with respect to legislation. I don't  
3 need to repeat that for you.

4 My only other point would be, in 2014,  
5 we're only a part of the way through the  
6 year, and a lot of things can happen with  
7 supply and with demand for RECs. And  
8 speaking as a supplier, while I don't hope to  
9 see prices go down, there's certainly a  
10 legitimate case for why prices would go down  
11 across all REC markets. If that were to  
12 occur, and prices, for example, were to trade  
13 below \$30, you could be expecting possibly a  
14 flood of REC deliveries into the Class III  
15 market. The point is: We don't know. And I  
16 would urge us to take the time to make the  
17 evaluation based on the data as they have  
18 come in, not on market expectation or  
19 assumptions. So I believe this is something  
20 that could be revisited a year from now when  
21 the data from 2014 are in, and again for 2015  
22 you could revisit it as the year has passed  
23 and we've seen what the actual supply and  
24 demand would look like.

1           Moving on to Class I, briefly. I know  
2           there's been some discussion on is there  
3           sufficient supply to meet the Class I demand.  
4           I did a quick look on publicly available  
5           documents, by the way, that we can supply if  
6           you're interested. But the NEPOOL GIS, which  
7           is the clearinghouse for all REC  
8           transactions, its latest list for -- is for  
9           Q3 of 2013 on facilities, and it lists 49  
10          separate facilities that have Class I  
11          visibility in New Hampshire. And just taking  
12          a brief look through those, it appears that  
13          the demand, while it's unclear exactly what  
14          the demand for 2013 is, it appears that the  
15          entire demand for 2013 Class I could be met  
16          by only two facilities that are in New  
17          Hampshire.

18                 And so I would recommend that there  
19                 doesn't appear to be a shortage of RECs  
20                 available in the market for 2013. The same  
21                 is true for 2014, with the arrival of a new  
22                 large biomass facility in the state. So I  
23                 don't believe at this time there would be any  
24                 requirements to make any changes to the

1 Class I.

2 Those are all the comments I have.

3 Thank you.

4 CHAIRMAN IGNATIUS: Thank you.

5 Questions, Commissioner Scott?

6 CMSR. SCOTT: Everybody's going  
7 to be tired of hearing from me, I think.

8 Thank you. I was curious. As  
9 a supplier, you know, we've been hearing --  
10 and I'm sympathetic to changes to the market,  
11 that uncertainty is not a good thing. And I  
12 understand that. But to the extent  
13 adjustments made from the Commission only  
14 impact the amount of ACP paid rather than  
15 whether an ACP will be paid, so if we're  
16 tinkering in that margin, how does that  
17 harm -- or how does that provide uncertainty  
18 for a supplier that would be detrimental?

19 MR. HEBEL: For the current year  
20 it wouldn't, on the face of it. No, it  
21 wouldn't make a difference. But the message it  
22 might send to buyers in the future is that,  
23 well, if we don't work too hard in making our  
24 purchases, it's possible there could be

1 revisions for us, so that it could mitigate the  
2 total ACP that we pay. Be more of a long-term  
3 concern than any short-run decision.

4 CMSR. SCOTT: Thank you.

5 CHAIRMAN IGNATIUS: Thank you.

6 And thank you for coming today.

7 Next is Jasen Stock from  
8 Timberland Owners Association. And after  
9 that will be Martin -- is it Orio?

10 MR. ORIO: Orio.

11 CHAIRMAN IGNATIUS: All right.

12 MR. STOCK: Good morning. Jasen  
13 Stock. I'm with the New Hampshire Timberland  
14 Owners Association. I'll be very brief.

15 Our interest is principally  
16 Class III. And we really wanted to echo the  
17 comments that Mr. Olson had made earlier with  
18 respect to 2015 and modifying. I think it's  
19 inappropriate at this time to be modifying  
20 2015, given the uncertainty that we've seen  
21 in the market. And of course our interest in  
22 all of this is really the fuel, the wood  
23 chips. And so I'm going to leave my comments  
24 at that, and I'll be happy to try to answer

1 any questions. And I appreciate the  
2 opportunity to weigh in on this.

3 CHAIRMAN IGNATIUS: Thank you.  
4 I guess we have no questions. Thank you for  
5 coming.

6 All right. Mr. Orio, followed  
7 by Francis Pullaro. Have I got that right?

8 MR. ORIO: Hi. Yes. Thank you,  
9 Madam Speaker and Panel for the opportunity to  
10 speak. My name is Martin Orio. I represent  
11 the New England Geothermal Professional  
12 Association. We are ground source, heat pump  
13 professionals that provide both residential and  
14 commercial solutions with that technology.

15 We were encouraged when the  
16 legislation came out about a year and a half  
17 ago now, I think. We have been working with  
18 Liz Nixon and her team to identify  
19 measurement standards, which I understand are  
20 very close at this point. I'm glad I was  
21 late on the speakers list because I was here  
22 more to get educated than I was to speak.

23 But I did want to say that, from a somewhat  
24 less politically savvy perspective, the

1 intent of the legislation was to make and  
2 continue to make New Hampshire a leader in  
3 renewable energy development to the benefit  
4 of the stakeholders -- that being, the  
5 ratepayers here in the Granite State.

6 So, to echo what others have  
7 said with regards to the various classes, I  
8 think the legislation's in place, and to  
9 bounce around with it is to create  
10 uncertainty in the marketplace. That,  
11 speaking from a group that is still waiting  
12 at the bus stop. We are looking at between  
13 10,000 and 20,000 RECs on the residential  
14 side once rulemaking is in place and the  
15 measurement protocols are understood so that  
16 we can introduce the opportunity to the  
17 marketplace. We're still waiting in that  
18 place. Large commercial opportunities could  
19 multiply the amount of RECs coming from our  
20 source quite rapidly and I think will really  
21 provide the kind of long-term development  
22 that the legislation intends. So I just  
23 wanted to share that. Thank you.

24 CHAIRMAN IGNATIUS: Thank you.

1 Mr. Pullaro, followed by Mr. Henry.

2 MR. PULLARO: Good morning,  
3 Madam Chair, Members of the Commission. My  
4 name is Francis Pullaro, P-U-L-L-A-R-O. I'm  
5 the executive director of RENEW. RENEW is a  
6 consortium of environmental advocates and  
7 renewable energy developers. Our mission is to  
8 promote the development of New England's own  
9 renewable resources for the benefit of New  
10 Englanders.

11 Having had the benefit of  
12 listening to all the testimony, I will say  
13 that I do have written testimony to submit.  
14 And rather than repeat what I think Kate  
15 Epsen has already covered with regard to  
16 letting the RPS market work, letting price  
17 signals be sent when the call for new  
18 resources is needed, I embrace that, also her  
19 call for continuing to provide regulatory  
20 stability. When you're an investor in a  
21 renewable energy project, when commissions or  
22 legislatures tinker or make drastic changes  
23 to the level of renewables going to be  
24 required now and in the future, it can

1           disincentivize those developers. So I will  
2           support her comments rather than get into  
3           that myself.

4                           One new area that I would  
5           address before concluding my remarks is that,  
6           if as a matter of policy the Commission  
7           wishes to place downward pressure on REC  
8           prices for the benefit of consumers and  
9           minimize the use of the ACP, which in itself  
10          is a consumer protection mechanism, my  
11          organization submits that the Commission  
12          should encourage the distribution utilities  
13          to utilize the Power Purchase Agreement  
14          mechanism already in the RPS statutory  
15          scheme. And I guess I should have clarified  
16          at the outset that my developers are only  
17          focused on the Class I market. So this is  
18          only applicable to that.

19                           But the statutory scheme in  
20          R.S.A. 362-F:9 allows for the purchase of  
21          long-term contracts. I would say that over  
22          the long term, average REC prices should be  
23          that which is necessary to allow for  
24          developers to actually build projects, the

1 amount of money necessary for the financing.  
2 But with competitively sourced, fixed-price  
3 PPAs, they can enable developers to offer a  
4 REC price less subject to the short-term  
5 supply and demand, and much closer to the  
6 incremental revenue stream they need to  
7 actually finance the project. For consumers,  
8 it will soften corresponding REC price hikes  
9 and provide savings.

10 So if the Commission wishes to  
11 retain these benefits, RENEW urges that the  
12 Commission support the distribution utilities  
13 conducting such competitive solicitations.

14 Just before I conclude, by way  
15 of example, there was a reference made to a  
16 solicitation in Connecticut which produced a  
17 PPA for a 250-megawatt wind project in Maine.  
18 The total cost for the energy and RECs of  
19 that project was about 6.9 cents. According  
20 to the regulatory commission filing of that  
21 PPA, the embedded REC price was only \$12. So  
22 that was just signed in the fall at a time  
23 when REC prices are quite high. So I think  
24 that points to the value of long-term

1 contracts and the ability to lock in  
2 lower-cost REC compliance, even when the  
3 actual market itself is quite high.

4 So, with that, I would be  
5 happy to submit my written testimony today.  
6 And I thank you for the opportunity to  
7 address you.

8 CHAIRMAN IGNATIUS: Thank you.  
9 Next is Mr. Henry, and then we have a couple  
10 people who arrived after the sheet was pulled  
11 in. So I'll just let you know, Mr. Allegretti,  
12 if you want to speak -- it looks like yes.  
13 Mr. Willing? No. Ms. Chamberlin?

14 MS. CHAMBERLIN: Yes.

15 CHAIRMAN IGNATIUS: Okay. So  
16 let's hear next from Mr. Henry.

17 MR. HENRY: Is that on now? I'm  
18 Dick Henry. I'm the founding director of  
19 HotZero, which is a thermal energy development  
20 company. And our interest is in the Class I  
21 thermal section.

22 I'd like to just back up for a  
23 minute to sort of take an overview of the  
24 whole process here, which is one of the

1 legislature wanting to promote renewable  
2 energy and setting some specific targets.  
3 And in a perfect world, if you want to let  
4 the market behave as a market, you wouldn't  
5 have set any kind of upscale price. And if  
6 that were the case, you know, probably the  
7 market would have developed a whole lot  
8 faster. But then you get legislative  
9 participation, which I think somewhat  
10 misguidedly is trying to at the same time  
11 provide, quote, "ratepayer protection," and  
12 by setting an ACP, slow down the development  
13 of the market. But this approach is  
14 ameliorated by taking the ACP funds, putting  
15 them into a fund and then issuing grants to  
16 help companies like mine develop a source of  
17 credits as quickly as possible. This is then  
18 further adjusted when the legislature moves  
19 in and says, and I quote, "Oh, you know, they  
20 got a windfall over there at the PUC. We  
21 have to correct that windfall situation."  
22 Well, I would beg to differ. This was not a  
23 windfall. This was working just the way this  
24 limited market force was designed to work.

1           So this puts you in this "Alice in  
2           Wonderland/Catch-22" situation, where you're  
3           under political pressure perhaps to try and  
4           rectify the perceived ratepayer costs of the  
5           ACP, knowing that if you do successfully  
6           collect the 22 million in this coming year,  
7           and therefore can really have absolutely an  
8           impact on seeing that thermal projects like  
9           mine can go forward and create more RECs,  
10          which in turn puts downward pressure on the  
11          REC market, as the previous speaker  
12          mentioned, then you end up with the  
13          legislative intent of dropping the price  
14          below the ACP and giving ratepayer protection  
15          and also obtaining the legislative goal of  
16          creating more renewable energy, less use of  
17          foreign fuels, more local use of biomass,  
18          improved local state economies and so forth  
19          and so on.

20                                So I would just reiterate what  
21          others have said, which is, we really need  
22          stability in that market. So, please, in  
23          your wisdom, don't change anything in at  
24          least the Class I thermal side, because we're

1 counting on that as a critical component.  
2 And as we look at communities that we hope to  
3 develop hot water district energy systems  
4 here in New Hampshire, you know, some  
5 communities which are economically stable and  
6 have large customer bases, et cetera, you  
7 know, we can make that happen. And the other  
8 communities which are really struggling  
9 economically because they are paying such a  
10 premium above natural gas for, you know,  
11 propane and oil for their thermal needs, we  
12 really need the help that the ACP can provide  
13 through your grant program for commercial and  
14 industrial renewable energy. The larger that  
15 fund is, the more you can help these initial  
16 projects, the faster we can develop the  
17 market, and the sooner the market REC price  
18 is going to drop. If, on the other hand, you  
19 go the other way and reduce the amount  
20 because there's not, quote, "availability" in  
21 this year, you know, those funds should just  
22 be put into the pot to make these projects  
23 happen faster. And as we heard from Mr.  
24 Labrecque at the beginning, he's in a "Catch

1           22." He can't say, "Oh, I'll be happy to pay  
2           \$90 for RECs." He gets slammed on prudence  
3           side. So, really, the only advantage we have  
4           right now is to follow, I think, some of the  
5           suggestions that Charlie Niebling made, which  
6           is, you know, get the ACP payments in at  
7           their current levels. Get those dollars back  
8           out into projects that can really generate  
9           more thermal RECs so that the market under  
10          these constrained situations can work and  
11          drive the price down. Thank you.

12                           CHAIRMAN IGNATIUS: Questions?  
13          (No response).

14                           I just note -- this may be a  
15          matter of wording. But I do not feel, and  
16          I'm certain that the order of notice was not  
17          issued on the basis of political pressure.  
18          That's not what we're here for. That's not  
19          what -- we haven't been asked to do this.  
20          This isn't a political analysis. We are  
21          looking at responding to the testimony we've  
22          heard in hearings about availability of RECs  
23          at prices that are reasonable under the  
24          statute and, you know, set by the ACP. So

1           that's what led to this, and that's going to  
2           be what our analysis is.

3           Mr. Allegretti and then Ms. Chamberlin.

4                       MR. ALLEGRETTI: Thank you very  
5           much, Madam Chair. My apologies for arriving  
6           late this morning. I was under the mistaken  
7           impression the hearing was noticed for 10. My  
8           fault.

9                       CHAIRMAN IGNATIUS: We issued it  
10          for 10, and then we had a subsequent order  
11          because of another conflict.

12                      MR. ALLEGRETTI: Well, please  
13          accept my apologies.

14                      CHAIRMAN IGNATIUS: Glad you  
15          made it.

16                      MR. ALLEGRETTI: My name is Dan  
17          Allegretti. I'm vice-president for State  
18          Government Affairs - East, with Exelon and  
19          Constellation Energy.

20                      I'm here today not just on  
21          behalf of Constellation, but on behalf of the  
22          Retail Energy Supply Association. We  
23          represent the competitive retail electric  
24          industry. And RESA is very concerned that

1 New Hampshire Class III and Class I REC  
2 markets are significantly constrained at the  
3 present time, that there simply isn't a  
4 sufficient supply of renewable energy  
5 certificates in those markets at prices below  
6 the ACPs to enable us to meet our obligations  
7 for renewable portfolio standards.

8                   You know, it's an interesting  
9 intersection of policy here. On the one  
10 hand, you have a policy to promote the  
11 development of certain types of generating  
12 resources, renewable resources. But that  
13 policy is constrained within a box of price  
14 and quantity that are defined by the RPS  
15 percentage as the quantity and the ACP as the  
16 cap on price. And I think it's important to  
17 consider both the cost containment policy, as  
18 well as the resource promotion policy, as you  
19 deliberate what to do here. In our view, so  
20 long as the market is constrained and the  
21 payments -- the ACP payments are not flowing  
22 through the market to the hands of the  
23 suppliers of the renewable energy  
24 certificates, you're not achieving the

1 development objective, but you are imposing  
2 the cost on consumers. I think there's an  
3 opportunity to reduce the cost to consumers  
4 without undermining the viability of  
5 promoting the development of resources within  
6 the cost containment that is given around  
7 that.

8 I do want to respond to Mr.  
9 Olson. I think he gave some very thoughtful  
10 remarks, and we certainly agree with him with  
11 regard to 2013. But there is a challenge.  
12 And you've heard a lot about uncertainty from  
13 the development side. Let me give it to you  
14 from the load-serving side as well.

15 We go into the marketplace,  
16 and we offer contracts for electricity to  
17 customers at fixed prices. That's a  
18 particularly important product because a lot  
19 of customers that were on month-to-month  
20 prices this winter experienced a bit of a  
21 surprise when they opened their -- yeah, I  
22 see nodding heads here. So it's important to  
23 be able to offer fixed-priced products to  
24 customers in the marketplace. To do that, we

1 need to look into the forward marketplace and  
2 price the renewable energy certificates times  
3 the RPS percentages in order to be able to  
4 put a forward price into those contracts. If  
5 there's no liquidity in the forward market  
6 below the ACP, we have to price it in at the  
7 full ACP and at the full percentage. So if  
8 you wait until early next year to decide what  
9 to do about 2015, it's a little late for us  
10 to offer the reduced cost to the customer  
11 that's signing a 12-month, fixed-price  
12 contract. The sooner we know it, the easier  
13 it is to pass those savings on to consumers  
14 through the retail market.

15 The last point I want to make  
16 is that under-supply is not just a question  
17 of the total supply of renewable energy  
18 certificates, but it's also a function of  
19 market liquidity. That there are two or  
20 three sellers in the marketplace that have  
21 ample certificates doesn't necessarily mean  
22 that they're available at a highly  
23 competitive price. And we've often seen the  
24 case in renewable energy certificate markets,

1 where a very small number of sellers have the  
2 available supply. I don't mean to imply that  
3 there is any inappropriate behavior. But the  
4 lack of liquidity does mean that the markets  
5 are not as competitive as they could be.

6 With that, I will conclude. I  
7 know you've heard a lot of testimony today.  
8 I thank you for your time and attention.

9 CHAIRMAN IGNATIUS: Thank you.  
10 Commissioner Scott.

11 CMSR. SCOTT: Thank you for  
12 that. Your testimony was nuanced, and I'm not  
13 always a nuance guy. So, do you feel that we  
14 should be adjusting the percentages?

15 MR. ALLEGRETTI: Yes, we would  
16 strongly encourage you adjust them downward.

17 CMSR. SCOTT: Thank you.

18 MR. ALLEGRETTI: We'll put that  
19 in writing and submit that this afternoon, just  
20 to make sure that's clear for the record.

21 CHAIRMAN IGNATIUS: I had a  
22 question. You had said that by money flowing  
23 into the ACPs and the funds, rather than back  
24 to the developers, you are not achieving the

1 objectives of the statute, and you are also not  
2 reducing cost to customers. So, in your view,  
3 the use of the ACP or the Renewable Energy Fund  
4 doesn't satisfy the objective of the statute?

5 MR. ALLEGRETTI: I think the  
6 primary objective is a market-based approach,  
7 in which there is a market for certificates and  
8 we achieve the benefits of a marketplace, in  
9 terms of the cost efficiencies and the  
10 innovations. I think the use of the funds --  
11 or the use of the ACP monies through a fund is  
12 not the primary objective. I think it's a  
13 reasonable mechanism to implement the price cap  
14 for the ACP. But I think the better approach  
15 is a well-functioning market. If you reduce  
16 the percentages and allow the marketplace time  
17 to catch up, I think you're better served, and  
18 I think that's more consistent with the primary  
19 policy.

20 CHAIRMAN IGNATIUS: And I know  
21 you do a good bit of work in Connecticut  
22 because you've testified about some Connecticut  
23 situations in other dockets. What's your  
24 understanding of the draft ramp-down policy

1           that Mr. Olson was describing? Is it likely to  
2           be issued soon? Is there any indication of  
3           what Connecticut will be doing with those ACPs?

4                           MR. ALLEGRETTI: In my  
5           experience, the Connecticut Legislature imposes  
6           on the state agencies there numerous deadlines,  
7           very few of which are actually met. It's not  
8           uncommon for the -- they're often not realistic  
9           deadlines for the agencies to implement. It's  
10          also been my experience that there is major  
11          energy legislation in the state of Connecticut  
12          every single year. So there's an awful lot of  
13          change for the agencies to implement year over  
14          year in Connecticut. So I would not be  
15          surprised if we encountered some significant  
16          delay in seeing the implementation of that.

17                          CHAIRMAN IGNATIUS: Thank you.  
18          Commissioner Scott.

19                          CMSR. SCOTT: Thanks. One more  
20          thought. To the extent you support the  
21          changing of the percentages, do you share the  
22          same concerns others have voiced about market  
23          certainty and regulatory certainty causing  
24          problems in the market?

1 MR. ALLEGRETTI: I think to the  
2 extent that you make a reduction now, not just  
3 for 2013, but for 2014 and 2015, and even '16,  
4 you give us some certainty as to what those  
5 percentages are, and we can use that certainty  
6 in pricing product to retail customers. So,  
7 you know, I would encourage you not just to do  
8 this every year looking backward, but to take a  
9 forward-looking approach. I think you can give  
10 the market more certainty, certainly in the  
11 retail supply market. We're looking for  
12 certainty on that side of the ledger as well.  
13 I think there's an opportunity here for you to  
14 provide that.

15 CMSR. SCOTT: Okay.

16 MR. ALLEGRETTI: Thank you.

17 CHAIRMAN IGNATIUS: Thank you.

18 Appreciate you coming.

19 Ms. Chamberlin.

20 MS. CHAMBERLIN: Thank you. I'm  
21 Susan Chamberlin, Consumer Advocate for the  
22 residential ratepayers.

23 I am very concerned about the  
24 short-term rate impacts on consumers for the

1 RPS. At the same time, I balance that  
2 concern with the long-term impact on the  
3 market. The legislature has supported the  
4 RPS as a cost-effective means of developing  
5 renewable energy for New Hampshire consumers.  
6 How we get there is the question we're faced  
7 with. And I would ask the Commission to  
8 balance the annual savings that you have  
9 control over with the impact on the long-term  
10 market. And if the savings are *di minimus*,  
11 then it is likely that the harm to the  
12 long-term market would be greater. If the  
13 savings are significant, then we have to look  
14 at, well, what type of market can be  
15 developed? How can we do this over the next  
16 few years?

17 So I believe the more  
18 significant time period is the 2014, 2015,  
19 and that we look at ways to stabilize the  
20 market and to create as much certainty as the  
21 Commission has control over, and send the  
22 message to the market, and the legislature as  
23 well, that the support is there for  
24 cost-effective programs and we're not

1 interested in having great swings back and  
2 forth, and that we use the money effectively.  
3 I think consumers are not served if the  
4 short-term gains are not balanced by  
5 long-term gains. And so that's what we have  
6 to look at.

7 CHAIRMAN IGNATIUS: When you say  
8 we should look for ways to stabilize the  
9 market, have you thought about what tools there  
10 are, what ways one might do that, or even what  
11 the process would be to work on that?

12 MS. CHAMBERLIN: I would develop  
13 certain -- I don't want to use matrix -- but  
14 just ways to identify is the market developing,  
15 is the market working, recognizing that it's a  
16 long-term process. So the more we swing back  
17 and forth, the less we're able to analyze the  
18 data.

19 One of the speakers talked  
20 about a three-year analysis; you know, we  
21 look at the changes over three years. Is it  
22 going in the direction we want it to go in?  
23 That way, you can at least start to smooth  
24 out some of the peaks and valleys and just

1 get a sense. If it's possible to do greater  
2 regional coordination, that I think would be  
3 the goal. I think that's very difficult.  
4 But it is a regional market, and I think  
5 that's how we have to look at it.

6 CHAIRMAN IGNATIUS: So are you  
7 talking about a stakeholder process through the  
8 PUC to try to develop data and policy  
9 recommendations?

10 MS. CHAMBERLIN: To the extent  
11 that it's already been done -- I'm coming in on  
12 sort of the tail end of this process, with the  
13 RPS having passed a few years ago -- it may be  
14 that the data already exists. So I would ask  
15 to do a look at the data that's already there.  
16 To the extent that it does not exist, then we  
17 develop it. But we need a way to measure. We  
18 need a way to measure is this cost-effective  
19 for consumers.

20 CHAIRMAN IGNATIUS: And in the  
21 meantime, it sounds like your recommendation is  
22 not to make any adjustment to 2013. And I'm  
23 not sure if you made a recommendation on  
24 whether 2014 or 2015 should be adjusted or if

1           that would be -- you'd be looking out even  
2           further than that after development of other  
3           market recommendations.

4                           MS. CHAMBERLIN:  I haven't  
5           analyzed any of the numbers.  I mean, I've  
6           listened to what people have said, and I've  
7           tried to kind of get a sense of where the  
8           numbers are.  My sense was, from the comments,  
9           is that 2013, the savings would be *di minimus*  
10          to consumers, and it would be quite harmful to  
11          the market.  I'm not sure that's true.  That's  
12          simply what I gathered from what people said.

13                           So I would ask that, you know,  
14          whatever change is being considered, that  
15          that be quantified, because I think that  
16          number is known, and then somehow quantify  
17          the impact on the market.  And I think that's  
18          a much harder number to figure out.

19                           CHAIRMAN IGNATIUS:  Thank you.  
20          Questions?

21                           (No response.)

22                           CHAIRMAN IGNATIUS:  Appreciate  
23          it.  Is there anything that the Commission  
24          Staff wanted to add after the comments that

1 we've heard?

2 MS. AMIDON: We just have, you  
3 know, a process recommendation, which is that  
4 the Commission may want to offer parties the  
5 opportunity to submit written comments. I  
6 would suggest considering a week from today,  
7 since we have a very short time frame that  
8 we're working with. We have no other comments.

9 CHAIRMAN IGNATIUS: Okay. I  
10 think that would be fine. Seems like that's  
11 plenty of time. Many of you were working from  
12 notes and written materials. So we hadn't put  
13 that in the order of notice. But why don't we  
14 agree that by close of business next Thursday,  
15 if you do want to submit written comments,  
16 please do. You don't have to. We obviously  
17 have a record of what you said today.

18 Is there anyone else who had  
19 not signed up to speak but would like to?

20 MR. FITZGERALD: Just have a  
21 question.

22 CHAIRMAN IGNATIUS: Yes, Mr.  
23 Fitzgerald.

24 MR. FITZGERALD: Is the

1 information that's submitted posted and  
2 available for --

3 CHAIRMAN IGNATIUS: Yes. Anyone  
4 who submits a written comment, we'll post that  
5 under this dockets.

6 MR. FITZGERALD: Okay.

7 CHAIRMAN IGNATIUS: Thank you.  
8 Ms. Kroll.

9 MS. KROLL: I just wanted to ask  
10 a question. When will the transcript be  
11 available? I represent Granite State  
12 Hydropower Association and we may be interested  
13 in submitting written comments. But I think  
14 hearing what was said here would be helpful for  
15 the experts back there to be able to submit  
16 meaningful written comments.

17 CHAIRMAN IGNATIUS: Well, I  
18 don't think -- I'll let our stenographer think  
19 about that for a moment. But I don't see any  
20 way that the transcript would be prior to next  
21 Thursday. So it may be you just have to work  
22 with what you heard today.

23 MS. KROLL: Absolutely.

24 CHAIRMAN IGNATIUS: Thank you.

1                   Now I'm going to regret this.  
2           But is there anyone who's already spoken, but  
3           there's something they just absolutely have  
4           to say? And that includes you, Commissioner  
5           Scott. [Laughter]

6                   All right. Hearing nothing,  
7           then, unless there's anything else, we'll  
8           close it out. I really appreciate everybody  
9           traveling here and adjusting your schedules  
10          because we had to move the time, and for all  
11          of your comments. It's been very helpful.  
12          So, thank you. And we're adjourned.

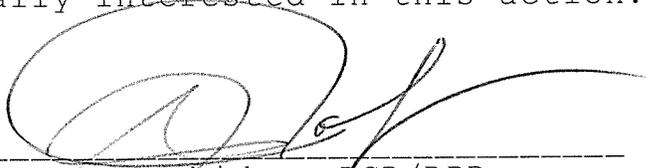
13                   **(Whereupon the hearing was adjourned at**  
14                   **11:14 a.m.)**

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C E R T I F I C A T E

I, Susan J. Robidas, a Licensed  
 Shorthand Court Reporter and Notary Public  
 of the State of New Hampshire, do hereby  
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I further certify that I am neither  
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 Susan J. Robidas, LCR/RPR  
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