

# STATE OF NEW HAMPSHIRE

## Intra-Department Communication

**DATE:** May 26, 2020

**AT (OFFICE):** NHPUC

**FROM:** Deandra Perruccio, Sustainable Energy Analyst

**SUBJECT:** REC 20-79, Ryegate Associates and ENGIE Resources LLC Request for Waiver of Puc 2503.03 (d)  
**Staff Recommends Waiver**

**TO:** Dianne Martin, Chairwoman  
Kathryn M. Bailey, Commissioner  
Michael S. Giaimo, Commissioner  
Debra A. Howland, Executive Director

**CC:** Karen P. Cramton, Director, Sustainable Energy Division  
David K. Wiesner, Director, Legal Division

On May 19, 2020, the Commission received a letter from Stuart Eng (Mr. Eng) of ENGIE Resources LLC (ENGIE), requesting a waiver of N.H. Admin. R., Puc 2503.03(d). ENGIE, a load serving entity (LSE) providing electricity to New Hampshire retail customers, has a Renewable Portfolio Standard (RPS) 2019 compliance obligation for Class III Renewable Energy Certificates (RECs). ENGIE requests waiver of Puc 2503.03(d) in order to submit 20,468 Class III RECs toward its 2019 RPS Class III compliance obligation, which due to a technical error described below, will not appear on its 2019 “My Settled Certificates Disposition”. Puc 2503.03(d) states:

A provider of electricity shall separately file its report titled “My Settled Certificates Disposition,” issued by the GIS to the provider containing the final number of certificates settled for the prior year no later than July 31 of each year.

The waiver request states that ENGIE intends to obtain 20,468 NH Class III RECs from the New Hampshire Class III-registered generation facility, Ryegate Associates (Ryegate) (NH-III-14-006). Ryegate and ENGIE, which are affiliated, have reached an internal agreement for ENGIE to acquire and utilize 20,468 RECs, the total number of Class III RECs which were inadvertently retired into Ryegate’s subaccount within the NEPOOL-GIS (New England Power Pool Generator Information System). Once RECs are retired into a subaccount, the RECs can no longer be accessed by a generator, such as Ryegate, for transfer to a LSE. NEPOOL-GIS issues and tracks RECs for all certified megawatt-hours (MWh) of generation in the ISO New England control area, as well as imported MWh from adjacent control areas.

Mr. Eng's letter states that Ryegate is a generator, and therefore has no RPS compliance obligation for load in New England. He further suggests that, by allowing ENGIE, a LSE, to utilize those RECs to meet its New Hampshire Class III compliance obligations, it would resolve this matter for all concerned.

Mr. Eng included as an attachment to the waiver request the "My Generation Certificate Disposition" report for the Ryegate facility, exported from the NEPOOL-GIS system on April 28, 2020. That report documents the RECs produced by the Ryegate facility and their status in the NEPOOL-GIS system. The RECs for which ENGIE requests a rule waiver are:

- 2019/01 MSS2433 RYEGATE 1-NEW VT 3270540 - 1 to 13265 13,265 Settled CT
- 2019/02 MSS2433 RYEGATE 1-NEW VT 3279549 - 1 to 7203 7,203 Settled CT

Those two sets of RECs were inadvertently marked as settled in Connecticut by Ryegate, a generating facility with no load obligation in any state. Staff has spoken with representatives of ENGIE and Ryegate, as well as NEPOOL-GIS administrators, to confirm that settled certificates cannot be transferred once retired in a settled subaccount. Ryegate therefore would be unable to transfer those RECs to any LSE within the NEPOOL-GIS system. NEPOOL-GIS administrators confirmed that any use of the RECs for RPS compliance would need to occur outside of the NEPOOL-GIS system.

The RECs referenced above are qualified both for New Hampshire Class III and for Connecticut Class I. Mr. Eng also attached a letter which was sent via email to the Connecticut Public Utilities Regulatory Authority (CT PURA) on May 19, 2020. That letter outlines ENGIE's intent to obtain and settle RECs currently represented in the Ryegate subaccount as "settled certificates" into New Hampshire, contingent upon approval of the requested waiver by the Commission.

The letter clarifies to CT PURA that Ryegate has no obligation to retire RECs in Connecticut, as it is not an LSE, and requests that CT PURA confirm the notification that RECs represented as "retired" in the Ryegate subaccount will be used by ENGIE for compliance with 2019 New Hampshire RPS Class III requirements. Mr. Eng further represents that ENGIE and Ryegate have discussed this issue with CT PURA staff and will continue to work with them to ensure avoidance of any "double counting" of the RECs.

Staff believes the requested waiver would allow both Ryegate and ENGIE to continue to meet the intent of the statutes and rules regarding New Hampshire's RPS while addressing a technical error which would otherwise result in the inability to utilize 20,486 eligible Class III RECs for New Hampshire RPS compliance. Staff further believe the waiver would reduce the potential for alternative compliance payments, which may be passed on to New Hampshire customers.

Staff therefore recommends approval of the waiver request and allowance of the 20,468 RECs to be used toward ENGIE's 2019 Class III compliance obligation. Staff further recommends that the waiver and subsequent acceptance of the RECs be made contingent upon confirmation from CT PURA that the RECs will not be used toward that state's compliance obligations. Staff also recommends that ENGIE verify at the time of its RPS compliance submission by July 1, 2020 that those RECs have been retired and used to meet RPS obligations only in New Hampshire by certifying and providing documentation that the RECs have not been accounted for the RPS compliance obligations of any other jurisdiction.

Staff maintains that the requested waiver meets the standard for rule waiver set forth in Puc 201.05 because it would serve the public interest and not disrupt the orderly and efficient resolution of matters before the Commission. In particular, the waiver request represents a proposed "alternative method" to satisfy the purpose of the RPS rules, because it would permit the use for RPS Class III compliance of RECs that would otherwise go unused as a result of their inadvertent retirement in the incorrect NEPOOL-GIS subaccount.

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