STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

DE 10-195

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

Petition for Approval of Purchased Power Agreement with Laidlaw Berlin BioPower, LLC

Order Denying Motion for Rehearing Filed by Wood IPPs, Granting Withdrawal of Document Filed by Edrest Properties, and Addressing Compliance with Conditions Set Forth in Order No. 25,213

O R D E R N O. 25,239

June 23, 2011

I. PROCEDURAL BACKGROUND

In this order we address two motions for rehearing of *Public Service Company of New Hampshire*, Order No. 25,213 (April 18, 2011) and consider whether the Amended and Restated Power Purchase Agreement (Amended PPA) filed by Public Service Company of New Hampshire (PSNH) complies with the terms of Order No. 25,213. Order No. 25,213 contains a detailed procedural history of the docket that is not repeated here except as appropriate to explain our rulings.

In Order No. 25,213, we concluded that a proposed Power Purchase Agreement (PPA) between PSNH and Laidlaw Berlin BioPower, LLC (Laidlaw) for the acquisition of energy, capacity, and renewable energy certificates (RECs) was not in the public interest as filed, but approved the PPA on condition that PSNH file a revised PPA complying with the terms of the Order within 30 days. On May 18, 2011, PSNH filed an unexecuted version of the Amended PPA that PSNH asserts complies with the terms set forth in Order No. 25,213.

On May 17, 2011, Bridgewater Power Company, L.P., Pinetree Power, Inc., Pinetree Power-Tamworth, Inc., Springfield Power LLC, Whitefield Power & Light Company, and Indeck Energy - Alexandria, LLC (collectively the Wood IPPs) filed a motion for rehearing.[1] The motion for rehearing was timely filed pursuant to RSA 541:3 and N.H. Code Admin. Rules Puc 203.33. PSNH and the City of Berlin filed objections to the motion for rehearing on May 24, 2011.

Intervenor Edrest Properties, LLC (Edrest) also filed a motion for rehearing, on May 18, 2011, and on May 27, 2011 asked the Commission to withdraw the motion. On June 6, 2011, the Office of Consumer Advocate (OCA) filed a letter setting forth several concerns in connection with the Amended PPA. On June 6, 2011, PSNH responded to the concerns raised by the OCA. Pursuant to RSA 541:5, the commission issued a secretarial letter on May 25, 2011 suspending Order No. 25,213 pending a decision on the motion for rehearing and determination of compliance of the Amended PPA with the terms set forth in such order.

II. WOOD IPPS

A. Motion for Rehearing

The Wood IPPs request that the Commission rehear Order No. 25,213 and issue an order consistent with the arguments raised in their motion and applicable to any compliance filing made in this docket. Motion for Rehearing at 22. Among other things, Order No. 25,213 included our ruling on the Wood IPPs' motion for rehearing of Order No. 25,192 (January 14,

[1] Also on May 17, 2011, the Wood IPPs filed with the Commission a copy of the RSA 541:6 notice of appeal they filed with the New Hampshire Supreme Court. The legal issues raised in the notice of appeal are among the issues raised in the Wood IPPs' motion for rehearing. We conclude that the Wood IPPs decision to file the notice of appeal does not foreclose us from acting on their motion for rehearing.

2011), in which we denied a motion to dismiss filed by the Wood IPPs on December 15, 2010, and addressed the Wood IPPs' arguments made in their closing statement.[2]

The Wood IPPs make two major arguments, each with several subparts. First, they argue that Order No. 25,213 is unlawful, unjust and unreasonable because it incorrectly determines that the REC purchase obligation extends past 2025, authorizes PSNH to enter into a REC purchase agreement whose terms extend beyond 2025, and allows PSNH to recover from ratepayers the cost of RECs acquired after 2025. *Id.* at 2. They maintain that a plain reading of RSA 362-F:3 demonstrates that, absent further legislative action, the REC purchase obligation ends in 2025. *Id.* at 3. They contend that the Commission erred in reviewing legislative history to hold that a REC purchase obligation exists beyond 2025. Even so, they argue that legislative history demonstrates that the REC purchase obligation ends in 2025. *Id.* at 4.

The legislative history they identify in support of their contention is a provision in Senate Bill 314 filed in the 2006 legislative session. Senate Bill 314 proposed a renewable portfolio standard (RPS) for the state; it contained a table that expressly provided a yearly REC purchase obligation for years through 2013 and a "thereafter" obligation for the years following 2013. Senate Bill 314 was voted inexpedient to legislate in the House of Representatives; the following year, however, new legislation to create an RPS for the state, House Bill 873, became law, codified at RSA Ch. 362-F. The statutory language did not contain the word "thereafter". According to the Wood IPPs, the absence of language creating an RPS program of indefinite duration was purposeful and differentiates the New Hampshire RPS program from the RPS programs of other states. *Id.* at 7. The Wood IPPs further maintain that the Commission's rules

[2] The Wood IPPs' first motion for rehearing and their closing statement were both filed with the Commission on February 14, 2011.

implementing RSA 362-F, Puc Ch. 2500, sets forth REC purchase requirements only for the years 2008 through 2025. *Id.* at 9. In the Wood IPPs' view, Order No. 25,213 erred by, in effect, adding words to the statute that the drafters specifically removed.

The Wood IPPs further assert that an end of the REC purchase obligation in 2025 harmonizes with the remainder of the statute and does not result in an absurd or unjust result. *Id.* at 11. Citing *Public Service Company of New Hampshire*, Order No. 24,945 (Feb. 27, 2009), the Wood IPPs argue that the reason for Commission approval of multi-year agreements under RSA 362-F:9 is to allow the petitioning electric distribution utility to recover the prudently incurred costs of such agreements. The Wood IPPs maintain that application of the plain meaning of RSA 362-F:3 and 362-F:9, I would prohibit the Commission only from pre-approving for rate recovery multi-year agreements that exceed the extent of the compliance requirements set forth in RSA 362-F:3, meaning that distribution utilities would have to demonstrate the prudence of such speculative purchases after the fact, such as in PSNH's energy service rate proceedings. According to the Wood IPPs, a distribution utility, like any other retail provider of electricity subject to the statutory REC purchase obligation, must bear the risk of recovering the costs of REC purchases that exceed the statutory RPS compliance requirements. *Id.* at 12.

In addition, the Wood IPPs contend that applying RSA 362-F:3 as written does not require the Commission to place a "temporal restriction on multi-year agreements not stated [in RSA 362-F:9, I]," *see* Order No. 25,213 at 74-75. They emphasize that the restriction is explicitly stated in RSA 362-F:9, I, *i.e.*, that the Commission may only authorize entry into "multi-year purchase agreements ... for certificates ... to meet reasonably projected renewable portfolio requirements and default service needs *to the extent of such requirements." Id.* at 13.

Further, they disagree with the reasoning of Order No. 25,213 that Commission review and reporting regarding RSA 362-F in 2025 would be a meaningless exercise if their interpretation is correct. *Id.* at 13-14.

The Wood IPPs' second major argument is that Order No. 25,213 unlawfully asserts jurisdictional authority under RSA 362-F to approve a PPA whose term for the purchase of RECs and recovery of the costs of those RECs from ratepayers extends beyond 2025. *Id.* at 15. They refer both to RSA 362-F:9, I and RSA 374-F:3,V(c),[3] which they assert only permits recovery from ratepayers of costs incurred in complying with RPS requirements.

In addition, the Wood IPPs contend that the Commission lacks authority and jurisdiction to levelize a projection of PSNH's REC purchase requirements. *Id.* at 16-17. They maintain that the Commission's efforts to project PSNH's RPS requirements for the 20-year term of the PPA and then levelize this projection over the entire term was unlawful. They argue that Order No. 25,213 unlawfully allows PSNH to purchase the levelized annual REC amount rather than the amount of RECs required to meet the statutory compliance requirement applicable to each year of the PPA term, and then binds ratepayers to fund the purchase of RECs not required for compliance with PSNH's RPS requirements.

The Wood IPPs further contend that the Commission lacks authority and jurisdiction to approve change in law provisions in an agreement under RSA 362-F that fail to give effect to the Commission's authority under RSA 365:28 (Commission authority to alter orders after notice and hearing). *Id.* at 17. The change in law provisions referred to here are sections 1.44, 1.57,

[3] The relevant part of RSA 374-F:3,V(c) is the provision that "[a]ny prudently incurred costs arising from compliance with the renewable portfolio standards of RSA 362-F for default service or purchased power agreements shall be recovered through the default service charge."

8.1, and 23.1 of the PPA. The Wood IPPs argue that Order No. 25,213 effectively asserts its right to waive or ignore, or not apply the plain meaning of RSA 365:28 and that RSA 362-F, 374-F:3, V(c), and 365:28, read *in pari materia,* prohibit the Commission from creating non-modifiable REC purchase requirements and insulating the contracting parties from future legislative action, at ratepayers' expense. *Id.* at 17-18. They further maintain that these three statutes are readily harmonized, *Id.* at 19, and state that unlike the RPS programs in other states, New Hampshire did not provide for vesting of statutorily-created REC purchase obligations underlying multi-year REC purchases and recovery of related costs. *Id.* at 20.

Finally, they contend that certain provisions of the PPA, *i.e.*, sections 1.8, 1.44, and 1.57, unlawfully require the present approval of the purchase of, and cost recovery for, RECs produced by the Laidlaw facility notwithstanding any future legislative or regulatory changes that would revise, replace or displace the New Hampshire RPS program and New Hampshire RECs, at prices that may not be permissible under the New Hampshire RPS, if the statute is amended, repealed, or displaced. *Id.* at 21-22. They reiterate that nothing in RSA 362-F:9, I or RSA 374-F:3, V(c) allows the Commission to authorize the purchase or cost recovery for anything but the costs of compliance with the New Hampshire RPS statute. *Id.* at 22.

B. Objections to Motion for Rehearing

PSNH objects to the Wood IPPs' motion for rehearing on grounds that the motion merely revisits issues and arguments that the Commission has already considered. PSNH contends that the Commission reviewed and considered the first two of the Wood IPPs' claims, *i.e.*, the "2025" issue and the RSA 365:28 issue, in Order No. 25,213 and Order No. 25,192. PSNH Objection at

1-2. PSNH asserts that the Wood IPPs raised these claims in at least four other filings in this proceeding. *Id.* at 3-4.

As to the Wood IPPs' claim that the Commission lacks authority and jurisdiction under RSA 362-F to levelize a projection of PSNH's REC purchase requirements, PSNH argues that the claim is legally incorrect because RSA 362-F:9 expressly recognizes that there may be different ways to "approach" implementation of the RPS requirements and the Commission is granted authority to review and approve multi-year purchase agreements with renewable energy sources "if it finds such agreements or such an approach, as may be conditioned by the commission, to be in the public interest." *Id.* at 2, 6. In particular, PSNH states that in Order No. 25,213 the Commission determined that an appropriate methodology to meet the law's public interest requirement was to set a certain level of REC purchases over the life of the PPA, an approach deemed by the Commission to be in the public interest to meet reasonably projected RPS needs over the long-term. In PSNH's view, the RPS law does not require that such reasonably projected RPS needs be done on a day-by-day, month-by-month, year-by-year, or decade-by-decade basis; rather, the Commission has the power to carry into effect the provisions of RSA Title XXXIV, including RSA 362-F, as part of its general supervisory authority granted by RSA 374:3. Finally, PSNH reiterates its objection to the granting of intervenor status to the Wood IPPs and requests that we reverse our approval. *Id.* at 7.

Like PSNH, the City of Berlin maintains that the "2025" issue was argued extensively during the hearings on the PPA and the Commission appropriately decided the issue in Order No. 25,213. City of Berlin Objection at paragraph 7. Berlin further contends that the additional legislative history relied upon by the Wood IPPs in their motion for rehearing is not new

evidence given that all such legislative history was available to them and they failed to raise this issue. Berlin maintains that reopening this matter and thus stalling the approval of the PPA for no valid reason, would have serious economic risks. Paragraph 8. Finally, Berlin states that PSNH has timely filed a revised PPA that conforms to Order No. 25,213. Paragraph 11.

C. Commission Analysis

Pursuant to RSA 541:3, the Commission may grant rehearing or reconsideration when a party states good reason for such relief. Good reason may be shown by identifying new evidence that could not have been presented in the underlying proceeding, *see O'Loughlin v. N.H. Personnel Comm'n* 117 N.H. 999, 1004 (1977), or by identifying specific matters that were "overlooked or mistakenly conceived" by the deciding tribunal. *Dumais v. State*, 118 N.H. 309, 311 (1978). A successful motion for rehearing does not merely reassert prior arguments and request a different outcome. *See Connecticut Valley Electric Co*., Order No. 24,189, 88 NH PUC 355, 356 (2003), *Comcast Phone of New Hampshire*, Order No. 24,958 (April 21, 2009) at 6-7 and *Public Service Company of New Hampshire*, Order No. 25,168 (November 12, 2010) at 10.

First, we reject PSNH's assertion that the Wood IPPs should not have been granted intervention. PSNH has demonstrated no new evidence or matters that were overlooked or mistakenly conceived when we granted the Wood IPPs intervention status.

The major arguments advanced by the Wood IPPs in their first motion for rehearing were included in their closing statement. The arguments made in the Wood IPPs' motion for rehearing are largely the same as those they made previously, and were ruled on in Order No. 25,191 at 4-8 and Order No. 25,213 at 70-77, with the exception of the levelization arguments,

which are discussed below. The Wood IPPs have not identified any new evidence regarding the "2025" or RSA 365:28 issues that were not and could not have been presented in the underlying proceeding. Neither have they identified matters that were "overlooked or mistakenly conceived" as would warrant a new hearing or reversal of prior rulings.

The only new argument advanced by the Wood IPPs relates to their claim that the Commission lacks authority and jurisdiction to levelize a projection of PSNH's REC purchase requirements. The argument is new because it relates to a condition to approval of the PPA established in Order No. 25,213, stating that:

> there need not be an exact match in each year of the PPA between the Class I RECs expected to be produced by the Laidlaw facility and PSNH's unsatisfied renewable portfolio requirement. Doing so would not be realistic, as the REC requirement ramps up over time but a new facility brings on a large influx of renewable generation at the moment it becomes operational. REC agreements that limit purchases to the REC requirement for each particular year would make financing of these projects difficult and could, in effect, deter desirable renewable energy generation projects from being approved and built, a result that we find contrary to legislative intent. Instead, we view the REC requirement in the context of the 20-year period covered by the PPA . . . .
>
> PSNH's reasonably projected Class I REC requirement is 7,960,000, or approximately 8 million certificates, over the 20-year term of the PPA. Given the increasing REC obligation over time, in the early years of the agreement the RECs generated by the project will be in excess of the statutory requirement while in the later years the RECs generated by the project will be less than the statutory requirement. We find that it is in the public interest pursuant to RSA 362-F:9 to approve a multi-year purchase agreement that levelizes the REC purchase requirement over time. *Id.* at 84, 95

Consistent with this conclusion, the Commission approved a condition to approval of the PPA that imposes a ceiling on PSNH's REC purchase obligation of 400,000 RECs per year on a levelized basis. *Id.* at 95. At the same time, we stated that RECs produced by Laidlaw above this ceiling could be purchased by any entity requiring RECs, at market prices or pursuant to a separate contract that Laidlaw might negotiate with a buyer. *Id.*

After review of the Wood IPP arguments, we conclude that we have authority under RSA 362-F to levelize a projection of PSNH's REC purchase requirements as part of the public interest determination under RSA 362-F:9 for the reasons set forth in Order No. 25,213 and in PSNH's objection to the Wood IPPs' motion for rehearing. We find no basis to conclude that the "reasonably projected renewable portfolio requirements" referred to in RSA 362-F:9, I must necessarily be determined on an annual basis as a matter of law. That is not an express requirement of the statute and as the agency responsible for determining whether to approve a multi-year purchase agreement under RSA 362-F:9, the Commission has latitude to decide whether "projected renewable portfolio requirements" are or are not "reasonable." In this proceeding, we have applied our best judgment in doing so. Ultimately, the judgments to be made affect the rates customers will be required to pay and the appropriate extent to which investment in renewable energy generation is to be stimulated. These are the kind of choices the Commission has traditionally been called on to make. *See Appeal of Verizon New England, Inc.*, 153 N.H. 50, 56 (2005).

We note further that RSA 362-F contemplates situations where "excess" RECs are acquired. For example, under RSA 362-F:7, I, unused REC certificates[4] issued for production during the prior two years may be "banked" and later used to meet up to 30 percent of a provider's requirements for the current year of compliance.[5] This being the case, it is clear that the Legislature envisioned the possibility of the accumulation of excess RECs to a limited extent.

[4] An unused certificate is one that is not used for compliance with RSA 362-F in the year in which it is produced.
[5] Alternatively, the excess RECs can be sold to other providers for their compliance purposes, with any resulting revenues being included in the calculation of energy service rates.

III. EDREST PROPERTIES

Edrest asks that it be permitted to terminate its previously filed motion for rehearing. The gist of Edrest's motion for rehearing is that significant changes to the plant's ownership structure and fuel supplier occurred since the issuance of Order No. 25,213 and that these changes can significantly affect whether the PPA is in the public interest. Both PSNH and the City of Berlin objected to Edrest's motion for rehearing.

Edrest gives no reason for the requested "termination" which we construe to be the same as withdrawal. We find no reason to reject the request and will treat the motion as withdrawn. Though Edrest's motion is withdrawn, however, we note that one of Edrest's issues, the change in ownership structure of the biomass plant, is pending before the Site Evaluation Committee (SEC).

IV. DETERMINATION OF COMPLIANCE

A. OCA Letter

The OCA states that section 6.1.3 of the Amended PPA is inconsistent with Order No. 25,213 in that it obligates PSNH's ratepayers to pay for 100% of the output of the plant contrary to the order, which limits energy purchases to 500,000 MWh per year. In addition, the OCA states that this provision improperly requires ratepayers to carry the costs of any overpayment of energy over 500,000 MWh for a year. The OCA further states that to be consistent with the order, section 6.1.4 of the Amended PPA should make clear that "excess cumulative reduction" is a subset of "cumulative reduction" that will serve to reduce the purchase price of the Laidlaw facility as provided in the Purchase Option Agreement (POA) and the Amended PPA should be revised to add a statement that if the reduction in the purchase price does not serve to refund the

"excess cumulative reduction," then Laidlaw must reimburse PSNH the excess cumulative reduction in cash. The OCA also questions why there is no security for the "excess cumulative reduction." Finally, the OCA states that the Amended PPA does not contain a provision that the PPA be revised "to add a provision that expressly recognizes the Commission's retention of such traditional regulatory authority" as required, *see* Order No. 25,213 at 98.

B. PSNH Response

PSNH disputes the OCA's assertions. Regarding section 6.1.3 of the Amended PPA, PSNH states that its obligation to pay contract rates for energy is limited to an annual purchase obligation of 500,000 MWhs, thus constraining the potential impact as required by Order No. 25,213. PSNH further relies on the reasoning and methodology contained in its May 18, 2011 letter to address the OCA's concern.[6] As to carrying costs borne by ratepayers, PSNH questions whether the 500,000 MWh cap would ever be exceeded and even if so, the cap would only be exceeded late in an operating year resulting in a short carrying period and minimal carrying costs.

Regarding the issue of the "excess cumulative reduction" raised by the OCA, PSNH states that the Amended PPA adequately addresses the possibility that PSNH would purchase the

[6] In that letter, PSNH explained that,

> PPA pricing will apply to no more than 500,000 MWhs of energy per year. Any additional energy produced by the Facility will be priced at the "Average LMP Price," thus making PSNH's customers indifferent to such purchases. The design of this provision is intended to ensure that both the Facility owners and PSNH's customers are treated fairly and equitably under the PPA, with no possibility of "gaming" purchases or plant operations to favor one party over the other. For example, if the contract language specified that purchases by PSNH ceased entirely once the 500,000 MWh sales cap was reached, the developer would have the theoretical opportunity to adjust the timing of the Facility's In-Service Date to just after the winter or summer peak periods. That would maximize energy sales to PSNH during lower cost spring and fall periods to the detriment of PSNH's customers and allow the developer to benefit by selling any generation in excess of the 500,000 MWh cap to the market at the end of an "Operating Year" which would occur during a high cost winter or summer period.

Laidlaw facility. PSNH refers to section 6.1.4(a) of the Amended PPA, which would be used to adjust the price of any facility purchase option by PSNH pursuant to Article 7, if the POA were exercised, and section 6.1.4(c), which states that the energy credit mechanism only applies to any "excess cumulative reduction" "at the end of any Operating Year other than the last Operating Year during the Term….".

PSNH responds to the OCA's question about the lack of security for the "excess cumulative reduction" by stating that it represents an untimely request for rehearing under RSA 541:3 and that, in any event, for every year of the contract except for the last operating year, the value of the facility's energy generated during the following year provides security for crediting any "excess cumulative reduction" to customers. Finally, with respect to the OCA's assertion regarding the need to expressly recognize the Commission's retention of its traditional regulatory authority, PSNH states that section 24.1(ii) expressly provides that the Amended PPA does not prevent PSNH from seeking NHPUC review or approval of any material discretionary actions to be taken by PSNH in performing under the agreement, such as PSNH's exercise or transfer of the POA, transfer of the cumulative reduction, transfer of the right of first refusal, or incurrence of expenditures under Article 8 hereof. Thus, according to PSNH, the Amended PPA complies with the terms of Order No. 25,213.

C. Commission Analysis

We have reviewed the Amended PPA and the written comments of PSNH and the OCA to determine whether the Amended PPA complies with the terms of Order No. 25,213. To the extent set forth below, we accept the Amended PPA as being in compliance with Order No.

25,213. The new provision in section 6.1.3 regarding energy purchases in excess of 500,000 MWhs per year, however, is an extraneous provision. In Order No. 25,213, we stated:

> [g]iven the likely variations in net output and capacity factor under actual operating conditions, and to constrain the potential impact on ratepayers, we condition approval of the PPA on an annual output purchase obligation of 500,000 MWh. Additional output *could* be purchased by any market participant, at market prices or pursuant to a separate contract that Laidlaw might negotiate with a buyer. *Id.* at 96. (emphasis added)

By contrast, the Amended PPA does not contain this limitation. Instead, section 6.1.3 inserts in this PPA, rather than in a separate contract, a pricing mechanism for energy deliveries in excess of 500,000 MWh per year, under which such excess deliveries are purchased, at the Average LMP Price as defined in new section 1.5. While we do not reject the PPA for inclusion of this provision, we do not approve any mandate that PSNH purchase more than 500,000 MWhs in any given year; neither do we pre-approve recovery of the costs of such excess purchases as part of this proceeding. If PSNH purchases more than 500,000 MWhs in any given year, it will have to demonstrate in future annual energy service reconciliation proceedings that such purchases were prudently undertaken and were reasonable in amount and price, in the same way other supplemental power purchases are reviewed by the Commission.

The OCA raises certain other issues in addition to the question of whether section 6.1.3 complies with Order No. 25,213. Regarding OCA's requested clarification that "excess cumulative reduction" be considered a subset of "cumulative reduction" that will serve to reduce the purchase price of the Laidlaw facility as provided in POA, the Amended PPA is clear enough that both excess and non-excess cumulative reduction will reduce the purchase price in the event the POA is exercised. As to the question of adding a statement to the Amended PPA providing that if the reduction in the purchase price does not serve to refund the "excess cumulative

reduction," then Laidlaw must reimburse PSNH the excess cumulative reduction in cash, such a provision would go beyond the terms we established in Order No. 25,213. There may be some risk that excess cumulative reduction amounts generated during the last contract year are not reimbursed, but that risk has been substantially reduced from the proposal as originally filed. Similarly, Order No. 25,213 did not require the Amended PPA to include security for the "excess cumulative reduction," nor did it require payment of carrying costs of any overpayment of energy over 500,000 MWh for a year. Finally, the Amended PPA does not need additional language recognizing the Commission's retention of its traditional regulatory authority. That authority remains as stated in Order No. 25,213.

Based upon the foregoing, it is hereby

ORDERED, the motion for rehearing filed by the Wood IPPs is denied; and it is

FURTHER ORDERED, that Edrest's request to terminate its previously filed motion for rehearing is granted; and it is

FURTHER ORDERED, that the Amended PPA is approved except to the extent set forth above; and it is

FURTHER ORDERED, that PSNH file with the Commission an executed copy of the Amended PPA in the event the SEC approves a change in ownership structure from that reflected in the Amended PPA.

By order of the Public Utilities Commission of New Hampshire this twenty-third day of June, 2011.

Thomas B. Getz
Chairman

Amy L. Ignatius
Commissioner

Attested by:

Kimberly Nolin Smith
Assistant Secretary

Concurring and Dissenting Opinion of Commissioner Below

I concur with the majority in all respects except with regard to its analysis and conclusion concerning the "2025" issue. Consistent with the reasoning set forth in my previous dissent on the question of whether a New Hampshire RPS compliance obligation persists beyond 2025, I would grant the Wood IPP's motion for rehearing on this issue on the basis that the majority misconstrued the law on this matter.

Clifton C. Below
Commissioner