

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 16-850**

**ELECTRIC RENEWABLE PORTFOLIO STANDARDS**

**Adjustment to Renewable Class Requirements**

**Order Maintaining Class III RPS Requirements for 2017 and Modifying Class I Useful Thermal RPS Requirements for 2016**

**ORDER NO. 25,978**

**January 17, 2017**

In this Order, the Commission modifies the Class I useful thermal Renewable Portfolio Standard requirement for calendar year 2016 by delaying the scheduled increase and keeping the level at 0.6 percent of retail electricity sales. The Commission does not modify the statutorily defined Class III Renewable Portfolio Standard requirement for calendar year 2017.

**I. PROCEDURAL HISTORY**

By Order of Notice issued November 10, 2016, the Commission solicited comment regarding whether it should adjust RSA 362-F electric renewable portfolio standard (RPS) requirements, specifically the RPS requirement for Class III (eligible biomass and landfill gas) for compliance (calendar) year 2017, and the Class I Useful Thermal (Thermal) RPS requirement for the 2016 compliance year. Pursuant to RSA 362:F:3, the Class III RPS requirement for 2017 is 8.0 percent of retail electricity sales, and the Class I Thermal RPS requirement for 2016 is 1.3 percent of retail electricity sales.

Providers of electricity that are required to comply with RSA 362-F achieve compliance by purchasing renewable energy certificates (“RECs”), one certificate representing the renewable characteristic of one megawatt hour (“MWh”) of renewable energy generation. If an electricity

provider is not able to procure a sufficient number of RECs to comply with the RPS requirement for any particular Class of RECs, that provider must pay the associated ACP into the New Hampshire Renewable Energy Fund. For Class III, the ACP rate for 2017 is set at \$45.00 per REC. For Class I Thermal, the 2016 ACP rate is set at \$25.33 per REC.

Pursuant to RSA 362-F:4, VI, “[a]fter notice and hearing, the commission may modify the Class III and Class IV renewable portfolio standards requirements under RSA 362-F:3 for calendar years beginning January 1, 2012 such that the requirements are equal to an amount between 85 percent and 95 percent of the reasonably expected potential annual output for available eligible sources after taking into account demand from similar programs in other states.” RSA 362-F:4, V allows the Commission to accelerate or delay by up to one year any given year’s incremental increase in Class I RPS requirements “[f]or good cause, and after notice and hearing.”

The Commission held a public comment hearing on December 6, 2016. The following parties offered public comment at the hearing: Robert Olson, Esq., on behalf of Bridgewater Power Company, LP, ENGIE North America, Inc., Tamworth and Pinetree Power, Inc., Springfield Power, LLC, DG Whitefield, LLC, and Indeck Energy Alexandria, LLC, all wood-fueled independent power producers (collectively the “Wood IPPs”); Charles Neibling on behalf of Innovative Natural Resource Solutions (“INRS”); Ray Albrecht on behalf of the National Biodiesel Board (“NBB”); Jason Stock, on behalf of the New Hampshire Timberland Owners Association (“NHTOA”); Dan Allegretti on behalf of Constellation NewEnergy (“Constellation”); Nathan Hebel and Jim Monahan on behalf of ReEnergy Holdings, LLC (“ReEnergy”); Mark Dean, Esq., on behalf of New Hampshire Electric Cooperative (“NHEC”);

and Matthew J. Fossum , Esq., on behalf of Public Service Company of New Hampshire d/b/a/ Eversource Energy (“Eversource”).

The Commission allowed interested parties to provide written comments by close of business on December 6, 2016. Written comments were provided by Liberty Utilities (Granite State Electric) Corp d/b/a Liberty Utilities (“Liberty”), Constellation, and ReEnergy.

## **II. PUBLIC COMMENTS**

### **A. Wood IPPs**

The Wood IPPs recommended that the Commission leave the 2017 Class III RPS requirement at the 8.0 percent level set by statute. The Wood IPPs made this recommendation based on a review of Class III supply and demand, and the activities in the RPS market in other New England states.

According to the Wood IPPs, there are eight (8) biomass facilities that have been qualified or are capable of being qualified to produce New Hampshire Class III RECs. Those facilities have a 90 percent capacity factor, and can produce and sell 919,500 Class III RECs annually. In addition, the Wood IPPs estimate that qualified landfill gas producers create 93,000 Class III RECs annually. Biomass and landfill gas facilities produce a total of 1,012,500 Class III RECs annually. Assuming statewide retail electricity sales for 2017 at 11,007,001 MWhs, and a Class III REC requirement of 8.0 percent of retail electricity sales, electricity suppliers would need 880,561 RECs to meet the Class III requirement. Using this reasoning, the Wood IPPs calculated that there will be an oversupply of Class III RECs for 2017, based on the statutory requirement of 8.0 percent.

As noted above, RSA 362-F:4, VI, allows the Commission to modify the Class III requirements under RSA 362-F:3 to an amount between 85 percent and 95 percent of the

reasonably expected potential annual output from available eligible sources after taking into account demand from similar programs in other states. The Wood IPPs calculated that 85 percent of the 1,012,500 available Class III RECs is 860,635, and 95 percent is 961,875.

The Wood IPPs then addressed the New England market for N.H. Class III RECs. The Wood IPPs explained that the Connecticut market allows N.H. Class III sources to participate as Connecticut Class I qualified facilities. In Connecticut, the ACP rate for Class I sources is \$55.00 per REC, while the N.H. ACP rate for Class III qualifying sources is \$45.00 per REC. ACP rates are essentially the upper limit for market prices, and the market prices are a function of supply and demand.

According to the Wood IPPs, in 2015, the market price for Connecticut Class I RECs was in the \$45.00 to \$50.00 range. The market price for Connecticut Class I RECs in 2016 is around \$21.00 per REC. In other words, the market price for Connecticut Class I RECs, as compared with prior years, is lower by over half. The 2017 projected market price for Connecticut Class I RECs is around \$24.00 per REC. So while there has been a slight increase in the projected 2017 market price compared to 2016, there has been a significant decline in the market price for Class I RECs in Connecticut. There is currently adequate REC supply for Connecticut Class I requirements as reflected in the low REC prices for 2016 and 2017. Based on this information, the Wood IPPs concluded that those facilities producing N.H. Class III RECs should be able to sell the RECs for a higher price in N.H. to N.H. suppliers of electricity. The Wood IPPs, recommended that the Commission allow the Class III RPS requirement to remain at 8.0 percent of retail electricity sales as provided for in RSA 362-F.

## **B. Innovative Natural Resource Solutions**

INRS focused its comments on the 2016 Class I Thermal RPS requirement. For 2016, the Class I Thermal RPS requirement is 1.3 percent of retail electricity sales. While there are a number of facilities that are now qualified to sell Thermal RECs in the state, and a number of others that have applications pending before the Commission, INRS said that there is a deficit between available RECs and the electricity suppliers' 2016 Class I Thermal requirement.

According to INRS, the current statutory obligation of 1.3 percent was part of a legislated settlement that was enacted in 2013 to accommodate the then-planned expansion of Concord Steam Corporation. Those plans were subsequently abandoned. Absent the legislative amendment for the expanded production of Concord Steam, the 2016 Class I Thermal RPS requirement would have been 0.7 percent of retail electricity sales. As a result of the change in Concord Steam's plans, and other factors related to the economics and regulation of small useful thermal projects, INRS said it does not expect that there will be a sufficient number of available Class I Thermal RECs to meet 2016 compliance requirements. Based on the foregoing, INRS recommended that the Commission set the 2016 Class I Thermal RPS requirement at 0.7 percent. INRS noted that the 2015 Class I Thermal RPS requirement was 0.6 percent of retail electricity sales.

## **C. National Biodiesel Board**

NBB expressed support for simplifying the procedures for participating in the Class I Thermal REC program. NBB said that improving and simplifying the administrative process would help school districts and local governments switch to renewable thermal energy. According to NBB, there would be plenty of potential supply of Class I Thermal RECs if the metering and application process were streamlined.

#### **D. New Hampshire Timberland Owners Association**

NHTOA agreed with the comments of the Wood IPPs regarding Class III RPS requirements. NHTOA urged the Commission to allow the Class III RPS requirement to remain at 8.0 percent of retail electricity sales for 2017.

#### **E. Constellation NewEnergy**

Constellation said that because Class III RECs are produced from facilities that began operation prior to January 1, 2006, and new facilities entering operation after that date are not eligible to produce Class III RECs, the number of Class III RECs has not increased since the enactment of RSA 362-F and is not likely to increase in any meaningful way. Constellation contends that as a result of the constrained supply of Class III RECs, Constellation and other electricity providers are not likely to be able to procure sufficient RECs to satisfy the Class III RPS requirement for the next several years.

Given the inability to procure the necessary Class III RECs, providers will be required to make substantial ACPs in lieu of purchasing RECs. Constellation stated that while ACPs are an appropriate and effective means of containing the costs of RPS compliance, it is not in customers' best interest to require providers to pay a penalty where there simply is not enough supply to comply with the requirements. Based on current and projected market conditions, Constellation recommended that the Commission reduce the Class III obligation for 2017.

With respect to Class I Thermal RECs, Constellation noted that there are currently 17 licensed units eligible to provide Class I Thermal RECs. Those units, according to Constellation, are quite small and Constellation has not found Class I Thermal RECs to be available in the New England market. Based on these observations, Constellation recommended that the Commission reduce the Class I Thermal RPS requirement for compliance year 2016.

**F. ReEnergy Holdings, LLC**

As an owner of six biomass power plants in Maine and New York, ReEnergy said that it actively participates in Class I REC markets in New England. ReEnergy said that N.H. Class III resources typically are dual-qualified for RECs, usually with Connecticut Class I. According to ReEnergy, the argument last year for reducing the N.H. Class III RPS obligation level for compliance year 2016 concerned the expectation that the Connecticut Class I market prices would remain above the N.H. Class III ACP level of \$45.00. Assuming that buyers would not pay more than the ACP for any REC, Connecticut Class I would be a more lucrative market. ReEnergy said it believes the Commission reduced the 2016 N.H. Class III obligation from 8.0 percent to 0.5 percent because of the expectation that the Connecticut Class I prices would continue to be greater than \$45.00 per REC.

ReEnergy said that, as of December 1, 2016, the mid-market value for the Connecticut Class I RECs was \$24.50. According to ReEnergy, the change is due to a steady price reduction in response to a substantially higher supply from Connecticut Class I eligible sources, including out of region wind imports, solar installations, and other renewable sources. Based on those developments, ReEnergy expects that generators who are eligible for N.H. Class III RECs will be very active in marketing their RECs to New Hampshire electricity suppliers in 2017. ReEnergy also opined that the full volume of N.H. Class III RECs produced will be available for sale to load serving entities in New Hampshire. Based on the foregoing, ReEnergy recommended that the Commission maintain the Class III RPS requirement of 8.0 percent for the 2017 compliance year.

### **G. New Hampshire Electric Cooperative**

NHEC said that based on information from brokers and through its efforts to procure Class III RECs, there are no Class III RECs available for purchase for New Hampshire RPS requirements. NHEC acknowledged that its experience was different from the descriptions of the market by others offering comment. NHEC recommended that the Commission set the Class III REC requirement at the 2016 level of 0.5 percent of retail sales for 2017. If the Commission were to allow the Class III requirement to remain at 8.0 percent of retail electricity sales, NHEC said it would result in an additional \$1.5 million cost to the NHEC which would be passed along to its members through rates.

Regarding the 2016 Class I Thermal RPS requirement, NHEC said that while there are some sources that are qualified to produce those RECs, as noted by INRS, the statute was amended to contemplate an increase in available Class I Thermal RECs that will not materialize. On that basis, NHEC recommended that the Commission delay the increase to 1.3 percent for the 2016 compliance year and leave the requirement at its current level of 0.6 percent of retail electricity sales.

### **H. Eversource Energy**

Eversource agreed with the comments of NHEC. Eversource develops its estimated costs for RECs based on its recent purchases of RECs, broker quotes, and the ACPs for each respective Class. Eversource noted that it estimated its total 2017 RPS compliance costs for all REC classes to be approximately \$27.5 million. Eversource said that the estimate assumes a Class III RPS requirement of 8.0 percent. Based on its view that few N.H. Class III RECs are available for purchase to comply with RPS requirements, Eversource calculated the compliance costs for Class III RECs using the ACP of \$45.00 per REC. As a result, approximately



\$13 million of its estimated 2017 RPS compliance costs are attributable to the purchase of Class III RECs.

### **I. Liberty Utilities**

With respect to Class III RPS requirements, Liberty said that it has only been able to purchase a small quantity of Class III RECs to meet RPS requirements since 2012 because owners of N.H. Class III RECs have been able to sell their RECs into other states in the New England market at a significantly higher price than that available in New Hampshire. According to Liberty, the available amount for N.H. Class III RECs is “zero.” Because, in Liberty’s view, market conditions in New England are not expected to change significantly in 2017, Liberty recommended that the Commission set the Class III RPS requirement at 0.5 percent until such time as it has been demonstrated that owners of Class III resources are willing to sell RECs to New Hampshire providers of electricity at a price below the N. H. Class III ACP rate.

### **J. Public Comments**

Patricia Martin, Mary Beth Raven and Beverly Edwards filed written comments after the December 6<sup>th</sup> deadline. Those individuals urged the Commission not to change the currently applicable (2016) RPS requirement for either Class I Thermal or Class III.

## **III. COMMISSION ANALYSIS**

### **A. Class III Existing Biomass and Landfill Gas RPS Requirement**

Based on the record before us, we find it unnecessary to modify the 2017 Class III RPS requirement of 8.0 percent of retail electricity sales. While no new biomass-fueled generating units will be eligible to produce Class III RECs, we are persuaded that the existing plants will produce sufficient Class III RECs that will be available for purchase by electricity providers doing business in New Hampshire. In making this determination, we refer to the public

comment of the Wood IPPs regarding the New England market for N.H. qualified Class III RECs.

We note that while the electricity suppliers disputed the comments of the Wood IPPs, the Wood IPPs' testimony is consistent with the SNL Power Daily REC market index regarding REC pricing for both Connecticut Class I and N.H. Class III RECS in 2015, 2016 and 2017. In addition, Eversource indicated in its most recent default service case (DE 16-822) that the market price for Class III RECs has decreased over time. Given the nature of the New England REC market, electricity suppliers are currently in the process of obtaining Class III RECs for calendar year 2016. While it is currently unknown whether a sufficient number of 2017 N.H. Class III RECs will be available to N.H. electricity suppliers, we expect the developments in the New England REC market in 2017 may result in more New Hampshire Class III RECs being available for purchase by New Hampshire electricity suppliers before the compliance deadline for the 2017 calendar year. Based on the foregoing, we will not modify the 2017 statutory requirement of 8.0 percent for Class III. In the event that the REC market does not materialize as expected, we will consider appropriate action at the time such event occurs.

#### **B. Class I Useful Thermal RPS Requirement**


Having considered the record, and pursuant to RSA 362-F:4,V, we find there is good cause to delay the implementation of the incremental increase in the Class I RPS requirement for 2016. INRS suggested that the Commission consider reducing the 2016 Class I Thermal RPS requirement to 0.7 percent, the initial goal set by the Legislature prior to amendments in 2013. While we understand this position, RSA 362-F:4, V only authorizes the Commission to delay any increment by no more than one year. Based on the foregoing, we will delay the increase in the Class I Thermal RPS requirement from 0.6 percent for 2015 to 1.3 percent for 2016. The


result is to maintain the Class I Thermal RPS requirement for 2016 at 0.6 percent of retail electricity sales.

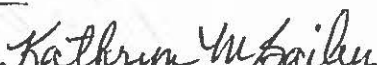
**Based upon the foregoing, it is hereby**

**ORDERED**, that the Commission will delay the 2016 increment in the Class I Useful Thermal RPS requirement, maintaining the 2015 Class I Useful Thermal RPS requirement at 0.6 percent.


By order of the Public Utilities Commission of New Hampshire this seventeenth day of January, 2017.

  
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Martin P. Honigberg  
Chairman

  
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Robert R. Scott  
Commissioner

  
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Kathryn M. Bailey  
Commissioner

Attested by:

  
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Debra A. Howland  
Executive Director