

**STATE OF NEW HAMPSHIRE  
PUBLIC UTILITIES COMMISSION**

**DE 15-477**

**ELECTRIC RENEWABLE PORTFOLIO STANDARD**

**Adjustments to Renewable Portfolio Class Requirements**

**Order Adjusting Class III Requirements for 2016**

**ORDER NO. 25,844**

**December 2, 2015**

In this Order, the Commission adjusts Class III Renewable Portfolio Standard (“RPS”) requirements for calendar year 2016 to 0.5% of retail electricity sales, a decrease from the statutory requirement of 8.0%. The Commission takes this action because the market for Class III Renewable Energy Certificates (“RECs”) has not changed since the Commission adjusted the Class III RPS requirements to 0.5% of retail electricity sales for calendar years 2014 and 2015.

**I. PROCEDURAL HISTORY**

By Order of Notice issued November 2, 2015, the Commission solicited comment regarding whether it should adjust RPS requirements for Class III (eligible biomass and landfill gas facilities in operation as of January 1, 2006), for compliance year 2016. Pursuant to RSA 362-F:3, Class III RPS requirements for 2016 are 8.0% of retail electricity sales. In Order No. 25,768 (March 13, 2015), the Commission reduced Class III requirements for 2014 and 2015 to 0.5% of retail electricity sales, due to the scarcity of qualifying Class III RECs eligible for compliance with the New Hampshire RPS.

Providers of electricity that are required to comply with RSA 362-F achieve compliance by either purchasing RECs, one REC for each megawatt hour of power sold, or making

alternative compliance payments (“ACPs”) specified by RSA 362-F into the Renewable Energy Fund.

The Commission scheduled a public comment hearing for November 17, 2015, to hear from interested parties about the availability of qualifying Class III RECs to meet the New Hampshire RPS compliance requirements.

## **II. PUBLIC COMMENT**

The following parties provided oral comments at the public hearing: Bridgewater Power Company, L.P., Pinetree Power, Inc., Pinetree Power-Tamworth, Inc., Springfield Power LLC, Whitefield Power and Light Company, and Indeck Energy-Alexandria, LLC (collectively, the “Wood Power Producers”), Public Service Company of New Hampshire d/b/a Eversource Energy (“Eversource”), N.H. Timberland Owners Association (“NHTOA”), the Office of Consumer Advocate (“OCA”) and the New Hampshire Electric Cooperative, Inc. (“NHEC”). Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty Utilities (“Liberty”) filed written comments on November 18, 2015.

The Wood Power Producers are the biomass-fueled electric generating facilities that produce eligible N.H. Class III biomass RECs. The Wood Power Producers said that in 2016, they will likely sell their N.H. Class III eligible RECs into other states where such RECs are eligible to receive a higher price than in New Hampshire. The Wood Power Producers explained that Connecticut set its ACP rate for the renewable energy class that includes eligible biomass at \$55.00 per REC, whereas New Hampshire set its ACP rate at \$45.00 for such RECs. The ACP rates serve as the maximum price for RECs. Because N.H. Class III eligible RECs can command a higher price in Connecticut, the Wood Power Producers expect to continue to sell into that market at least until Connecticut revisits the implementation of a planned biomass phase-down in its RPS program in 2018. According to the Wood Power Producers, if Connecticut implements

the biomass phase-down, the Wood Power Producers would then consider selling the biomass Class III RECs in New Hampshire. The Wood Power Producers also noted that three states—Connecticut, Rhode Island, and Massachusetts—issued a request for proposals (“RFP”) for clean energy projects. The project chosen from the responses to the RFP could affect the REC markets in each of those states in the classes where N.H. Class III RECs are eligible to satisfy the RPS requirements in those states.

Based on the foregoing, the Wood Power Producers recommended that the Commission set the RPS obligation for Class III RECs between 0.3% and 0.5% for 2016. Given the uncertainty in the Connecticut RPS and REC market, and its planned phase down of biomass requirements, the Wood Power Producers recommended that the Commission change only the 2016 Class III REC requirements, and review the 2017 market for Class III RECs next year.

The NHTOA agreed with the comments of the Wood Power Producers.

NHEC stated that there is no liquid market of available Class III RECs in New Hampshire, and that the situation is essentially unchanged from the last time the Commission reviewed this issue in Docket DE 15-035. NHEC urged the Commission to adopt the lowest possible obligation for Class III RECs for the 2016 compliance year. With respect to years beyond 2016, NHEC encouraged the Commission to reduce Class III REC requirements as long as possible. NHEC also stated that they have entered into a long-term contract for power that includes the purchase of approximately 18,000 N.H. eligible Class III RECs.

Eversource agreed with the comments of NHEC and recommended that the Commission set 2016 Class III REC requirements at zero. Eversource said it did not see any need to act on years beyond 2016 at this point in time.

The OCA said that as long as N.H. Class III eligible RECs were being sold in the Connecticut market, the Commission should set the 2016 Class III REC requirements between

0.1% and 0.3% of retail electricity sales. According to the OCA, such a change would result in the same level of ACPs being made into the renewable energy fund in 2016 as were made in 2015. The OCA recommended that the Commission review Class III RPS requirements on a year to year basis.

In its written comments, Liberty said that, because owners of N.H. eligible Class III RECs sell the RECs in markets which offer higher prices than the New Hampshire market, no Class III RECs will be available in 2016 to use for N.H. RPS compliance. Liberty recommended that the Class III REC requirements for 2016 be set at zero. With its comments, Liberty provided data demonstrating that, for 2015, N.H. eligible Class III RECs can also be sold in states with higher ACP rates, and associated higher market prices. Liberty pointed out that the Massachusetts's ACP rate in 2015 is \$67.07 per REC, with a market price of \$50.50. Similarly, in Rhode Island, the ACP rate in 2015 is \$67.07 per REC, with market price of \$50.00. In both states, the market price is higher than the 2015 ACP rate for N.H. Class III RECs of \$45.00 per REC.

Staff provided information based on annual RPS reports, confirming the scarcity of Class III RECs. According to Staff, very few Class III RECs have been used to meet New Hampshire Class III RPS requirements in recent compliance periods, and that compliance has been met principally through ACPs. Staff said that, due to the scarcity of Class III RECs in the New Hampshire market, if the Commission did not change Class III RPS requirements for 2016, alternative compliance payments could amount to approximately \$40 million.

### **III. COMMISSION ANALYSIS**

We have considered the comments provided to us and we find it appropriate to maintain Class III RPS requirements at the current level of 0.5% of retail sales for 2016 because there has been no significant change in the Class III REC market in New England. Class III RECs are

produced from facilities that began operation prior to January 1, 2006, and produce power from methane gas, or from eligible biomass technologies that have a gross nameplate capacity of 25 megawatts or less. Because the eligible facilities must have commenced operation before 2006, new biomass facilities are not eligible for Class III status. In addition, a Class III facility may become eligible as a Class I source as a result of increasing capacity or making an applicable investment, and then elect to return to Class III status instead of remaining a Class I source. *See* RSA 362-F:4 (j). No facility has made this election, most likely because both the market price and ACP rate for Class I RECs are higher than the rates applicable to Class III RECs. As a result the number of eligible facilities and associated Class III RECs are not increasing at this time.

Further, because the New Hampshire RPS law operates in conjunction with the regional REC market operated through the New England Power Pool Generation Information System, New Hampshire Class III RECs are eligible to meet the RPS requirements in other states, as pointed out by the Wood Power Producers. The record indicates that the Wood Power Producers sell the RECs they produce at a higher price in Connecticut than in New Hampshire, and that this situation is likely to continue through 2016. In addition, New Hampshire eligible landfill gas facilities have sold their RECs in Connecticut, Massachusetts, and Rhode Island, and it is unclear whether this practice will continue. The record demonstrates that the market for Class III RECs remains unchanged from last year, when we reduced 2014 and 2015 Class III RPS requirements to 0.5%. *See* Order No. 25,768 (March 13, 2015).

Pursuant to RSA 362-F:4, VI, after notice and hearing, the Commission can modify Class III requirements “such that the requirements are equal to an amount between 85 percent and 95 percent of the reasonably expected potential annual output of available eligible sources after taking into account demand from similar programs in other states.”

The Wood Power Producers confirmed that most or all of the Class III RECs generated by New Hampshire-eligible biomass sources will continue to be sold in other markets for 2016. Absent specific information regarding the sale of Class III RECs by landfill gas sources in New Hampshire, we will assume that some portion of those RECs are available for sale in New Hampshire. Based on the foregoing analysis, we find that it is appropriate and consistent with the statute to maintain the Class III RPS requirements for 2016 at 0.5% of retail electricity sales.

We will make this adjustment for calendar year 2016 only, and will review the N.H. Class III REC market next year to determine if changes are needed in subsequent years.

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

**ORDERED**, that pursuant to RSA 362-F:4,VI, Class III RPS requirements for calendar year 2016 shall be reduced to 0.5% of retail electric sales for each provider of electricity.

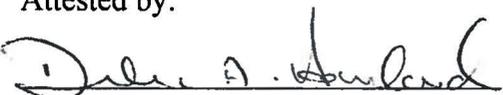
By order of the Public Utilities Commission of New Hampshire this second day of December, 2015.

  
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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