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June 16, 2006

Kim Smith
NH Public Utilities Commission
21 South Fruit St., Suite 10
Concord, NH 03301-2429

Re: June 23, 2006 Energy Planning Advisory Board Stakeholder Forum

Dear Ms. Smith:

Pursuant to the notice issued by the Energy Planning Advisory Board ("Board") soliciting comments for its June 23, 2006 Stakeholder Forum, please place my name on the list of commentators. During the last 20 years, our firm has been involved in a wide range of energy policy issues nationally and in New Hampshire. The firm represents a variety of renewable energy projects and facilities including the biomass generating stations in Bridgewater, Bethlehem, Tamworth and Springfield. These four facilities total approximately 65 MWs of capacity. Each of these generating stations sells its output to Public Service Company of New Hampshire ("PSNH") under power sales arrangements resulting from a settlement agreement with PSNH and public utility commission orders. Within the near term each of these power sales arrangements will expire. In fact, two of these power sales arrangements are expected to end within this calendar year.

As many of the Board members are aware, in the last legislative session, considerable effort on the part of many stakeholders was devoted to addressing issues related to development and passage of a renewable energy portfolio standard ("RPS"). These efforts centered on two bills: SB 314, the substantive renewable portfolio standard legislation and HB 1146, the renewable portfolio standard study bill. The substantive bill was not enacted; instead the legislature passed the study bill.

Kim Smith
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Consistent with the Board's recommendation noted in its June 6, 2006 Annual Report and in its June 5, 2006 New Hampshire Energy Plan Progress Report, we support the enactment of a New Hampshire RPS as a recommended action item for legislation.

An RPS can take many forms depending on the renewable energy objectives of, and policy choices made by, the state. The final draft form of SB 314 reflects policy choices resulting from a number of stakeholder work sessions on the bill and a number of House Science, Energy, and Technology Committee work sessions. SB 314 is an RPS that embodies New Hampshire's need to stimulate investment in new and existing renewables. Its eligibility criteria are set out in a multi-tier class system that insures a balance between new and existing renewables and a balance among the types of renewables.

We recommend that the final draft form of SB 314 be used as the working model for RPS legislation. A copy of the final draft form of SB 314 is attached. The bill requires a portfolio standard in the year 2007 of about 60 MW. By 2010 the requirement is about 113 MW. The bill does not set prices, instead it creates a market-driven renewable credit trading program and establishes a cap on the price of credits. The cap acts to create a market for the trading of the renewable credits below the cap price. The bill does not mandate long-term contracts for the purchase of credits and therefore the risk of locking-in above market credit prices is mitigated.

I thank the Board for the opportunity to address the need for, and the benefits of, a New Hampshire RPS.

Sincerely,

A handwritten signature in black ink that reads "Robert A. Olson". The signature is written in a cursive, slightly slanted style.

Robert A. Olson, Esq

.RAO/dd

Amendment to SB 314

(Based on ST&E work session on 4/18 – changes to Sen. Clark’s language shown.)

1 Replace the bill with the following:

2 1 Statement of Purpose. The general court finds that:

3 I. Renewable energy generation technologies provide fuel diversity to the state and New
4 England generation supply and have the potential to lower and stabilize future energy costs by
5 helping to minimize regional dependence on imported fossil fuels such as natural gas and oil.

6 II. The increased use in New Hampshire and New England of electricity generated using low
7 emission, renewable energy technologies will help to reduce the amount of nitrogen oxide and
8 particulate matter emissions transported into New Hampshire and also generated in the state,
9 thereby improving air quality.

10 III. It is in the public interest to stimulate investment in low emission renewable energy
11 generation technologies in New England and, in particular, New Hampshire, whether at new or
12 existing facilities.

13 2. New Subparagraph: Application of Receipts: Renewable Energy Fund. Amend RSA
14 6:12, I(b) by inserting after subparagraph (242) the following new subparagraph:

15 (243) Moneys deposited in the renewable energy fund established under RSA 374-
16 G:6.

17 3 Default Service. Amend RSA 374-F:3, V(c) to read as follows:

18 (c) Default service should be designed to provide a safety net and to assure universal
19 access and system integrity. Default service should be procured through the competitive market and
20 may be administered by independent third parties. *The default service so procured shall include any
21 renewable energy certificates the distribution company is obliged to acquire pursuant to RSA 374-G,
22 with any prudent associated cost of such certificates or payments to the renewable energy fund
23 recovered through the default service charge.* The allocation of the costs of administering default
24 service should be borne by the customers of default service in a manner approved by the commission.
25 If the commission determines it to be in the public interest, the commission may implement
26 measures to discourage misuse, or long-term use, of default service. Revenues, if any, generated
27 from such measures should be used to defray stranded costs.

28 4 Amend RSA 374-F:7, III to read as follows:

29 III. The commission is authorized to assess fines against, revoke the registration of, and
30 prohibit from doing business in the state, any competitive electricity supplier which violates the
31 requirements of this section *or RSA 374-G.*

32 5 New Chapter: Electric Provider Renewable Energy Requirement. Amend RSA by inserting
33 after chapter 374-F the following new chapter:

34 CHAPTER 374-G

Deleted: Such generation also advances long-term climate change strategies by helping to control carbon dioxide levels in the atmosphere.

Deleted: IV.
Deleted: It is in the public interest to support incentives to reduce New Hampshire’s consumption of fossil fuels to produce electricity consistent with regional, national, and international policy on promoting renewable energy and which also have the potential of reducing the long-term cost of energy.¶

ELECTRIC RENEWABLE PORTFOLIO STANDARD

374-G:1 Definitions. In this chapter:

I. "Biomass fuels" means plant-derived fuel including clean wood such as brush, stumps, lumber ends and trimmings, wood pallets, bark, wood chips or pellets, shavings, sawdust, and slash, agricultural crops, biogas, or liquid biofuels, but shall exclude any materials derived from construction and demolition debris.

II. "Certificate" means the record that identifies and represents each megawatt-hour generated by a renewable energy generating source in accordance with RSA 374-G:3.

III. "Commission" means the public utilities commission.

IV. "Customer-sited source" means a source that is interconnected on the end-use customer's side of the retail electricity meter in such a manner that it displaces all or part of the metered consumption of the end-use customer.

V. "Department" means the department of environmental services.

VI. "Eligible biomass technologies" means generating technologies that use biomass fuels as their primary fuel source, provided that the generation unit has a quarterly average nitrogen oxide (NOx) emission rate of less than or equal to 0.075 pounds/million British thermal units (lbs/Mmbtu), and an annual average particulate emission rate of less than or equal to 0.02 lbs/Mmbtu as measured and verified under RSA 374-G:8.

VII. "End-use customer" means any person or entity in New Hampshire that purchases from another person or entity electricity at retail, but shall not include:

(a) A generating facility taking station service at wholesale from ISO or self-supplying from its other generating stations; and

(b) Prior to January 1, 2009, a customer who purchases non-default service under a supply contract executed prior to January 1, 2006.

VIII. "Historical generation baseline" means the average annual electrical production from a facility, stated in megawatt-hours, for the 3 years ~~2002 through 2004~~, or for the first 36 months after the facility began operation if that date is after December 31, ~~2001~~; provided that the historical generation baseline shall be measured regardless of whether or not the emissions from the facility during the baseline period meets emissions requirements of the class.

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IX. "Methane gas" means biologically derived methane gas from anaerobic digestion of organic materials from such sources as yard waste, food waste, animal waste, sewage sludge, septage, and landfill waste.

X. "New England control area" means the term as defined in ISO-New England's Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3, Section II.

XI. "Off-grid source" means a source that is not connected to a utility transmission or distribution system.

XII. "Primary fuel source" means that the fuel or fuels, either singly or in combination, comprise at least 90 percent of the total energy input into the generating unit and that the

1 remaining 10 percent fuel source is only used for start-up, maintenance, or required operational
2 needs.

3 XIII. "Provider of electricity" means a distribution company providing default service or a
4 retail electricity supplier as defined in RSA 374-F:2, II.

5 XIV. "Renewable energy generating source" or "renewable source" or "source" means a class
6 I-A, I-B, I-C, II-A, or II-B source of electricity. An electrical generating facility, while selling its
7 electrical output at long-term rates established before January 1, 2006 by orders of the commission
8 under RSA 362-A, shall not be considered a renewable source.

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9 XV. "Renewable energy class I-A" or "class I-A" means the production of electricity from any
10 of the following, provided the source began operation after January 1, 2006:

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11 (a) Wind energy;

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12 (b) Geothermal energy;

Deleted: a) Solar photovoltaic or solar thermal energy;¶

13 (c) Fuel cells utilizing hydrogen derived from biomass fuels or methane gas or from
14 electricity generated by renewable sources;

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15 (d) Ocean thermal, wave, current, or tidal energy;

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16 (e) Methane gas; and

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17 (f) Eligible biomass technologies having a gross nameplate capacity of 50 megawatts or
18 less, including any biomass unit whose primary fuel source was coal prior to January 1, 2006.

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19 XVI. "Renewable energy class I-B" or "class I-B" means the production of electricity from
20 solar photovoltaic, provided the source began operation after January 1, 2006.

21 XVII. "Renewable energy class I-C" or "class I-C" means the incremental production of
22 electricity in any year from a class II-A source or any hydroelectric generating facility licensed or
23 exempted by Federal Energy Regulatory Commission (FERC), regardless of gross nameplate
24 capacity, over its historical generation baseline, provided the commission certifies demonstrable
25 completion of capital investments after January 1, 2006 attributable to the efficiency improvements,
26 additions of capacity, or increased renewable energy output that are sufficient to, were intended to,
27 and can be demonstrated to increase annual renewable electricity output. The determination of
28 incremental production shall not be based on any operational changes at such facility not directly
29 associated with the efficiency improvements or additions of capacity.

Deleted: a hydroelectric facility having a gross nameplate capacity of 100 megawatts or less as of January 1, 2006, with or without construction in its operation by a fish ladder or a similar fish facility, or

30 XVIII. "Renewable energy class II-A" or "class II-A" means the production of electricity from
31 any of the following, provided the source began operation prior to January 1, 2006:

32 (a) Methane gas;

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33 (b) Eligible biomass technologies having a gross nameplate capacity of 25 MWs or less;
34 and

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35 (c) Municipal solid waste combustion technologies subject to RSA 125-M.

36 XIX. "Renewable energy class II-B" or "class II-B" means the production of electricity from
37 hydro energy, provided the source began operation prior to January 1, 2006, has a gross nameplate
38 capacity of 5 MWs or less, and is constricted in its operation by a fish ladder or a similar fish facility.

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1 XX. "Year" means a calendar year beginning January 1 and ending December 31.

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2 374-G:2 Minimum Renewable Portfolio Standards.

3 I. For each year specified in the table below, each provider of electricity shall obtain
4 certificates sufficient in number and class type to meet or exceed, in megawatt-hours represented,
5 the following percentages of total megawatt-hours supplied by the provider to its end-use customers
6 that year, unless the provider makes payments to the renewable energy fund under RSA 374-G:6, II:

7 Category	2007	2008	2009	2010	2011	2012	2013	Thereafter
8 Class I-A and/or I-C	0%	0%	1%	1%	2%	3%	4%	4%
9 Class I-B	0.0%	0.0%	0.04%	0.08%	0.15%	0.2%	0.3%	0.3%
10 Class II-A	3.5%	4.5%	5.5%	6.5%	6.5%	6.5%	6.5%	6.5%
11 Class II-B	0.5%	1%	1%	1%	1%	1%	1%	1%

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12 II. On or about January 1, 2010, the commission shall open a docket to conduct a review of
13 the category requirements in paragraph I and make a report of its findings to the legislature by
14 November 1, 2010, including any recommendations for changes to the category requirements or
15 other aspects of the program. In the docket the commission shall review, in light of the purposes of
16 this chapter:

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17 (a) The adequacy or potential adequacy of sources to meet the category requirements of
18 paragraph I;

19 (b) The category requirements of all sources in light of then existing and expected
20 market conditions;

21 (c) The addition of a thermal energy component to the renewable portfolio standard;

22 (d) Increasing the category requirements relative to classes I-A, I-B, and I-C beyond
23 2013; and

24 (e) The possible introduction of any new classes or categories or the consolidation of
25 existing ones.

26 374-G:3 Renewable Energy Certificates.

27 I. The renewable portfolio standard program established in this chapter shall utilize the
28 regional generation information system (GIS) of energy certificates administered by the Independent
29 System Operator-New England, Inc. (ISO-New England) and the New England Power Pool
30 (NEPOOL) or their successors. If the regional GIS certificate tracking system administered by the
31 ISO-New England is no longer operational or accessible, the commission shall develop an alternative
32 certificate program, after public notice and hearing, designed to be as comparable to the GIS
33 certificate tracking system as possible.

34 II. The commission shall establish procedures by which electricity production not tracked by
35 ISO-New England from off-grid and customer-sited sources, including behind the meter production,
36 may be included within the certificate program, provided such sources are located in New
37 Hampshire. The procedures may include the aggregation of sources and shall be compatible with
38 procedures of the certificate program administrator. The production shall be monitored and verified

1 by an independent entity, which could include electric distribution companies.

2 III. The commission shall designate in a timely manner New Hampshire eligible renewable
3 sources to the certificate program administrator under paragraph I, with such sources being the
4 recipient of all certificates issued for purpose of this chapter

5 IV. (a) Certificates obtained for purposes of complying with this chapter shall
6 come from sources within the ISO-New England region unless:

7 (1) A unit-specific bilateral contract for sale and delivery of a source's
8 electrical energy to the New England control area is executed; and

9 (2) Such contract includes associated transmission rights for delivery of the source's
10 electrical energy over the ties from an adjacent control area to the New England control area.

11 (b) The commission may impose such other requirements as it deems appropriate,
12 including methods of confirming actual delivery of the electrical energy into the New England control
13 area.

14 374-G:4 Sale, Exchange, and Use of Certificates. A certificate may be sold or otherwise
15 exchanged by the source to which it was initially issued or by any other person or entity that
16 acquires the certificate. A certificate may only be used once for compliance with the requirements of
17 this chapter. It may not be used for compliance with this chapter if it has or will be used for
18 compliance with any similar requirements of another non-federal jurisdiction, or otherwise sold,
19 retired, claimed, or represented as part of any other electrical energy output or sale. Certificates
20 shall only be used by providers of electricity for compliance with the requirements of RSA 374-G:2 in
21 the year in which the generation represented by the certificate was produced, except that unused
22 certificates of the proper class issued for production during the prior 2 years may be used to meet up
23 to 30 percent of a provider's requirements for a given category obligation in the current year of
24 compliance. In addition, first quarter 2008 certificates may be used to satisfy year 2007
25 requirements, with such certificates to be counted as part of the 30 percent limit on certificates from
26 years 2005 and 2006.

27 374-G:5 Information Collection. By July 1 of each year, each provider of electricity shall submit
28 a report to the commission, in a form approved by the commission, documenting its compliance with
29 the requirements of this chapter for the prior year. The commission may investigate compliance and
30 collect any information necessary to verify and audit the information provided to the commission by
31 providers of electricity.

32 374-G:6 Renewable Energy Fund.

33 I. There is hereby established a renewable energy fund. This nonlapsing, special fund shall
34 be continually appropriated to be expended by the commission in accordance with this section. The
35 state treasurer shall invest the moneys deposited therein as provided by law. Interest received on
36 investments made by the state treasurer shall also be credited to the fund. All payments to be made
37 under this section shall be deposited in the fund. The moneys paid into the fund under paragraph II
38 of this section, excluding class I-B monies, shall only be used by the commission for the following

Deleted: IV. Certificates obtained for purposes of complying with this chapter shall come from sources within the ISO-New England region unless an external unit contract for delivery of the energy to the ISO-New England control area is executed and such contract includes associated transmission rights for delivery of the generation unit's electrical energy over the ties from an adjacent control area to the ISO-New England control area. ¶

1 purposes: supporting thermal and electrical renewable energy initiatives, energy efficiency, and
2 demand-side management including programs that reduce demand for both electricity and non-
3 renewable fuels used in heat production and transportation. Class I-B monies shall only be used to
4 support solar energy technologies. Fund monies may be used to administer this chapter, but all new
5 employee positions shall be approved by the fiscal committee.

6 II. In lieu of meeting the portfolio requirements of RSA 374-G:2, an electricity provider may,
7 at the time of report submission under RSA 374-G:5, make payment to the commission at the
8 following 2007 dollar rates for each megawatt-hour not met for a given category obligation through
9 the acquisition of certificates:

- 10 (a) Class I-A and/or I-C - \$50;
- 11 (b) Class I-B - \$200;
- 12 (c) Class II-A - \$25; and
- 13 (d) Class II-B - \$25.

14 III. Beginning in 2008, the commission shall annually adjust these rates by January 31 of
15 each year using the United States Bureau of Labor Statistics Consumer Price Index.

16 IV. The commission shall make an annual report by October 1 of each year, beginning in
17 2008, to the legislative oversight committee on electric utility restructuring under RSA 374-F:5
18 detailing how the renewable energy fund is being used and any recommended changes to such use.

19 374-G:7 Application.

20 I. The commission shall certify the classification of an existing or proposed generation
21 facility by issuing a determination within 45 days of receiving from an applicant sufficient
22 information to determine its classification. The application shall contain the following:

- 23 (a) Name and address of applicant;
- 24 (b) Facility location and NEPOOL GIS identification number, if available;
- 25 (c) Description of the facility, including fuel type, gross generation capacity, operation
26 date, and, in the case of a biomass source, NOx and particulate matter emission rates and a
27 description of pollution control equipment or practices proposed for compliance with applicable NOx
28 and particulate matter emission rates; and

29 (d) Such other information as the applicant may provide to assist in determining the
30 classification of the generating facility.

31 II. The commission shall certify applications of off-grid or customer-sited sources in a
32 manner that is compatible with the procedures established for recognizing such production under
33 RSA 374-G:3, II.

34 III. Biomass facilities otherwise meeting the requirements of a source shall be conditionally
35 certified by the commission subject to compliance with the applicable NOx and particulate matter
36 emission standards. ~~Within 10 days of verification of compliance with emissions standards from the~~
37 department, as provided in RSA 374-G:8, III, the commission shall designate the facility as eligible
38 pursuant to RSA 374-G:3, III.

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1 374-G:8 Verification of Emissions From Biomass Sources. Any source seeking to qualify using
2 an eligible biomass technology shall verify emissions in accordance with the following methods:

3 I. For nitrogen oxide emissions, the source shall install and operate a continuous emissions
4 monitor that meets departmental standards as codified in rules.

5 II. For particulate matter emissions, the source shall conduct an annual stack test in
6 accordance with methods approved by the department. Upon completion of 3 annual tests which
7 demonstrate compliance, the source may request of the department for a decrease in the frequency of
8 testing, but to not less than once every 3 years.

9 III. Each such source shall file with the department and the commission within 45 days of
10 the end of each calendar quarter an affidavit and documentation attesting to the source's average
11 NOx emission rate for such quarter and the most recent particulate matter stack test results. For
12 purposes of initial certification under RSA 374-G:7, the results of a stack test may be filed with the
13 department at any time to demonstrate compliance with both the particulate matter and nitrogen
14 oxide emissions standards. Within 30 days of a filing, the department shall provide verification of
15 the emissions reported in the filing to the commission.

16 374-G:9 Rulemaking. The commission shall adopt rules, pursuant to RSA 541-A, necessary to
17 implement this chapter.

18 6 Effective Date. This act shall take effect 60 days after its passage.

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<#>The form and usage of certificates to meet chapter requirements.
<#>Procedures for participation of customer-sited and off-grid sources and verification of production.
... III. Information required as part of compliance filings.
... IV. Certifying and decertifying the classification of sources.
... V. Payments into the renewable energy fund and usage of revenues generated.
... VI. Measurement of historical generation baselines.
... VII. Exemptions from requirements based on existing supply contracts.
... VIII. Representation of renewable source products to end-use customers.
... IX. Adjustment of payment rates under RSA 374-G:6, III.