



May 8, 2014

Debra A. Howland  
Executive Director  
Public Utilities Commission  
21 S. Fruit Street  
Concord, NH 03301

***Re: Docket No. DE14-104 – Electric Renewable Portfolio Standard  
Comments on Adjustments to Class I and Class III RPS Requirements***

Dear Director Howland:

The Retail Energy Supply Association (“RESA”) hereby provides the following comments in response to the Supplemental Order of Notice issued April 24, 2014 by the New Hampshire Public Utilities Commission (“Commission”).

**I. Background/Procedural History**

On April 15, 2014, the Commission determined that the market for New Hampshire renewable energy certificates (“RECs”) has become significantly constrained. As a result, it is likely that New Hampshire electricity providers will not be able to procure sufficient RECs to fully satisfy the Class III portfolio requirements for the next several years. It is anticipated that electricity providers will make substantial alternative compliance payments (“ACPs”) in lieu of purchasing Class III RECs during these years. In addition, the Commission has also heard from electricity providers regarding the potential inability to purchase sufficient Class I (new renewable) RECs to meet RPS requirements for 2013 and 2014.

As a result, the Commission issued an Order of Notice on April 24, 2014 scheduling this public hearing to take comment on whether it is appropriate for the Commission to adjust RPS Class requirements and if so, what calendar years should be adjusted, and how the adjustments should be calculated.

## **II. Comments**

### **a. NH Class III and Class I REC market remains significantly constrained leading to suppliers paying ACPs rather than procure RECs via the market.**

As the Commission concluded earlier this month, the supply of RECs available to satisfy the New Hampshire Class I and Class III RPS requirements is significantly constrained. One reason for the shortage of Class I supply is that there are only a few generators that are uniquely certified to supply the Class I market...and these facilities are relatively small. In addition, a large amount of Class III supply is being utilized to meet RPS requirements in other states.

As a result of this constrained supply, electricity providers will not be able to procure sufficient RECs to satisfy the Class I & Class III RPS requirements for the next several years. Given the inability to procure the necessary RECs, suppliers will be required to make substantial alternative compliance payments (“ACPs”) in lieu of purchasing RECs during these years.

While ACPs are an appropriate and effective means of containing the costs of RPS compliance, it is not in customers’ best interest to require suppliers to pay a penalty where there simply is not enough supply to comply with the requirements. This result is bad for customers.

### **b. New Hampshire is Not Alone in Confronting RPS Market Imbalances**

Earlier this year the Rhode Island Public Utilities Commission issued an order finding that there may not be adequate supplies available to meet the 2015 RPS requirement and therefore decided to forego the scheduled increase in compliance obligation (from 8.5% to 10.0%) until there is adequate supplies in the market. Ohio and other states are also considering modifications to scheduled increases in RPS requirements. Here in New Hampshire, the Commission has the statutory authority to modify the RPS requirements. Doing so would be in the best interest of customers.

### **c. Recommendations**

Based on current and projected market conditions, RESA offers the recommendations below.

#### **i. Reduce Class III obligation for years 2014 - 2016**

As the Commission noted in the Order of Notice, the Commission has the authority to “modify the class III and IV renewable portfolio requirements under RSA 362-F:3 ... 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.”<sup>1</sup>

Based on current and expected shortages in the market, we recommend the Commission reduce the Class III obligation to an amount equal to 95 percent of the expected annual output of available eligible resources for compliance years 2014 through 2016. This will provide a reasonable opportunity for the market to correct and increase the available supply in the market.

**ii. Reduce Class I obligation for years 2013 - 2016**

The Commission also has existing authority to delay the incremental increase in the class I RPS requirement. For reasons similar to those stated regarding the Class III requirements, RESA recommends the Commission reduce, or delay, the scheduled increase in the requirements for compliance years through 2016 due to resource inadequacy. There simply are not enough resources to meet the current obligations.

**III. Conclusion**

RESA appreciates the opportunity to comment. Please do not hesitate to contact me at (603) 224-9653 if you have any questions.

Sincerely,

*/s/ Daniel W. Allegretti*

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*On behalf of RESA*

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<sup>1</sup> Supplemental Order of Notice (quoting N.H. Rev. Stat. 362-F:4, V and VI).