

**STATE OF NEW HAMPSHIRE  
DEPARTMENT OF ENERGY**

**ELECTRIC RENEWABLE PORTFOLIO STANDARD**

**Adjustment to Renewable Portfolio Standard Class III Requirements**

**COMMENTS OF THE BRIDGEWATER POWER COMPANY**

NOW COMES the Bridgewater Power Company (“BPC”), by and through its attorneys, Donahue, Tucker, & Ciandella, PLLC, and hereby submits the following comments with regard to the proposal identified in the above-referenced docket.

1. The Commission issued an Order of Notice of Public Comment Hearing on February 10, 2023 for a public comment hearing, in which the Commission stated that, pursuant to RSA 362-F:4, VI, it was considering a modification to the Class III Renewable Energy Credit (“REC”) purchase requirements for compliance year 2022 from the 8.0% established under New Hampshire Renewable Portfolio Standard (“NHRPS”). The reason set forth for the Commission’s consideration was the potential lack of availability of Class III RECs in the market due to “reduced production from a number of Class III certified biomass facilities during the 2022 calendar year” combined with uncertain demand and market dynamics on the regional scale, which called into question the ability of electricity providers to procure sufficient New Hampshire Class III RECs to satisfy the Class III RPS requirement for compliance year 2022. The Department of Energy conducted a public comment hearing on the matter on February 24, 2023 and allowed for interested parties to submit written comment on or before March 3, 2023.

2. BPC submits these comments to express that, although it does not oppose a proposal that would result in the reduction of the purchase requirements for Class III RECs for

2022, BPC continues to strongly believe this reduction can and should not become the new precedent for the future purchase requirements under the program.

3. BPC has expressed in past comments to the Department (and previously to the Public Utilities Commission) that if Load Serving Entities (“LSEs”) continue to believe that the purchase requirement will be lowered based on the assertion that LSEs cannot procure sufficient RECs, LSEs will have no motivation to offer competitive prices to generators during the compliance generation year and will, in turn, only offer prices well below the ACP during the compliance year or not make offers at all. This has been and continues to be a self-fulfilling prophesy, where the market conduct of LSEs contributes to the shortage of RECs that ultimately form the basis for the reduction in the Class III REC purchase requirements. In this way, the conduct of market participants actively undermines the purposes and efficacy of the RPS by providing a reprieve from RPS requirements through circumstances of the LSEs’ own manufacturing.

4. In 2022 when a number of LSE’s issued their Requests For Proposals for RECs, the LSEs did not look to purchase any New Hampshire Class III RECs. While it is possible that LSEs may have already purchased sufficient RECs to satisfy their responsibilities or had enough banked REC’s to satisfy a reduced requirement, it seems more likely that LSEs anticipate the adjustment from the Department of Energy and wait to know their actual requirement before engaging in the market. BPC had and still has available NH Class III RECs.

5. Market prices for energy have risen significantly over the last year, and, as a result, biomass facilities that had suspended operations have resumed operations. As explained in prior comments, biomass facilities must pay all operating and maintenance costs during operation. While the increase in market prices for electricity has reduced some of facilities’ reliance on Class

III RECs to cover operating costs, facilities still rely on RECs for portions of those costs. However, revenue from the sale of RECs may not be received for more than six months after the actual generation. The Department's annual consideration of reducing the Class III REC purchase obligation at the close of the calendar year creates uncertainty from market participants, particularly biomass facilities who do not have foreseeability as to what their revenues will be because of the lack of a vibrant market during the active generation year.

6. BPC continues to believe that there should be sufficient market signals earlier in the compliance year for the department to open an inquiry and set the Class III REC purchase requirement sooner. A second adjustment could be made if somehow conditions changed markedly after that inquiry. Beginning in this compliance year 2022 and going forward NH biomass generators will be much more reliant upon the NH RPS program than in past years as the RPS program in Connecticut has started a "Biomass Phasedown" and much of the generation from New Hampshire biomass facilities will no longer qualify for Connecticut Class I RECs.

7. There remains sufficient installed capacity to satisfy demand for Class III RECs under the RPS. Although the Class III REC production was likely below the 8% purchase requirement for Compliance Year 2022, the shortfall is not the result of unavailable capacity. Instead, it was the result of curtailed operations at several facilities. Again, many of these facilities have resumed operations and may have available RECs. The Department's Emissions Verification Summary for the fourth quarter, issued on February 13, 2023, showed at least one additional Class III eligible facility resuming operations in the Fourth Quarter of 2022. In conclusion, the negative purchase requirement adjustment to Class III RECs for compliance year 2022 can be supported by BPC however, the commission should suggest future procurement guidance to LSEs if they want similar consideration in future compliance periods. BPC is mindful of the compliance costs of the

RPS program to ratepayers and does not support large ACP payments when RECs cannot be procured. BPC will always support the LSEs request to lower the purchase requirement if they have acted in good faith in their procurement process. If they do not, BPC strongly believes these LSEs should be required to pay ACPs at the full 8% purchase requirement. This is the only way that the integrity of the program can be maintained and at the same time ratepayer interests protected.

8. BPC appreciates the Commissions thought and consideration.

Respectfully submitted,  
BRIDGEWATER POWER COMPANY  
Through its Attorneys  
DONAHUE, TUCKER & CIANDELLA, PLLC



Dated: March 1, 2023

---

Eric A. Maher, Esq.  
Bar # 21185  
16 Acadia Lane  
Exeter, New Hampshire 03833  
603-778-0686 (O)  
[emahe@dtclawyers.com](mailto:emahe@dtclawyers.com)

**Certificate of Service**

I hereby certify that I served a copy of this filing these comments in accordance with the Orders of Notice by sending these comments to [Proceedings@energy.nh.gov](mailto:Proceedings@energy.nh.gov) this 1st day of March, 2023.



---

Eric A. Maher, Esq.