

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF ENERGY**

ELECTRIC RENEWABLE PORTFOLIO STANDARD

Adjustment to Renewable Portfolio Standard Class III Requirements

SUPPLEMENTAL 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 supplemental comments with regard to the proposal identified in the above-referenced matter.

1. The Department of Energy (“the Department”) issued an Order of Notice on January 21, 2022 for a public comment hearing in which the Department 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 2021 from the 8.0% established under New Hampshire Renewable Portfolio Standard (“NHRPS”). The reason set forth for the Department’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, 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 2021.

2. BPC submitted written comments to the Department, in which the BPC did not oppose the reduction of the purchase requirement but expressed concern as to the future impact of the Department’s decision in reducing the Class III REC purchase requirement for Compliance Year 2021.

3. The Department held a public comment hearing, during which BPC, various LSEs, amongst other stakeholders and interested parties participated. During the public comment hearing, two points arose regarding which BPC now submits supplemental comments: (1) the impact of a reduction on the Class III REC purchase obligation on already purchased RECs and (2) the timing for the Department's further consideration of adjustments to the Class III purchase price obligation for subsequent Compliance Years.

4. With regard to the impact of a purchase reduction on already purchased RECs, RSA 362-F:7, I provides that:

Certificates shall only be used by providers of electricity for compliance with the requirements of RSA 362-F:3 in the year in which the generation represented by the certificate was produced, except that unused certificates of the proper class issued for prediction during the prior 2 years may be used to meet up to 30 percent of a provider's requirements for a given class obligation in the current year of compliance.

As was clear during the public comment hearing, certain LSEs already have a considerable number of RECs banked as a result of the adjustment to the Class III purchase obligations for Compliance Year 2020. A further adjustment in the Class III purchase obligation for Compliance Year 2021 leads to the strong possibility that any Class III RECs purchased in Compliance Year 2021 over an adjusted Class III REC purchase obligation will also be banked. Also, some banked RECs may become stranded.

5. Therefore an adjustment in the Class III purchase obligation creates potential unfairness on both those LSEs and generators. For those LSEs that have a substantial number of banked Class III RECs due to the adjustments in Compliance Years 2020 and 2021, those LSEs may be unable to use a significant portion of those banked RECs within the two-year window set forth in RSA 362-F:7 due to the 30% limitation on using banked RECs to satisfy compliance obligations, which may lead to those banked RECs going to waste and resulting in sunk costs.

6. For generators, a purchase adjustment that leads to further RECs to be banked will result in negative market pressures that may suppress biomass production. As BPC represented during the public comment hearing and in its written comments, Connecticut's phase-down of Class I RECs produced by biomass resources (and not methane facilities) goes into effect in 2022 and will reduce the eligibility of biomass generation for Class I Connecticut RECs by 50%, meaning that only 50% of a biomass generator's production will be eligible for RECs in the Connecticut marketplace. As such, biomass generators will be more reliant on the New Hampshire marketplace in 2022 and beyond. However, if LSEs have a substantial number of banked RECs due to the LSEs participation in the NH REC marketplace throughout the Compliance Year, those LSEs will not be required to purchase up to 30% of their obligation in a critical transitional year, which may lead to suspended operations, which in turn may cause a further scarcity of Class III RECs and further adjustments to the purchase obligation.

7. For this reason, BPC supports an LSE's ability to pursue recovery of already acquired RECs as a stranded cost, as opposed to banking those RECs if the purchase requirement is going to be adjusted downward. The recovery in such a way will allow the LSEs to be made whole, while allowing for the recovery of those acquired RECs over a period of time in a manner that will mitigate impacts to ratepayers. Doing so will also avoid the possibility of a significant number of RECs being banked and used in Compliance Year 2022 or years subsequent that may lead to further financial pressures on generators. BPC understands that such an action cannot be taken by the Department as part of its consideration but would have to be decided by the Public Utilities Commission, and BPC would support the opening of such a docket should the Department adjust the Class III REC purchase obligation.

8. With regard to the second issue, BPC supports the Department considering reductions to the Class III REC purchase obligations early in the Compliance Year to allow for greater foreseeability and input as to potential production concerns earlier in the year. As has been reflected by the Department's consideration of the adjustment in Compliance Year 2021 and the Public Utilities Commission's adjustments in Compliance Years 2012, 2013, 2014, and 2020, circumstances that cause a scarcity in Class III RECs in New Hampshire have been foreseeable and have largely depended on the ACP in Connecticut. The impacts of these foreseeable circumstances can be modeled and considered earlier in the Compliance Year, such that market participants can make operational and/or purchase decisions earlier in the Compliance Year.

9. Foreseeability early in the Compliance Year is vital to generators because generators operate and produce power for several months prior to LSEs initiating the purchase of Class III RECs for the Compliance Year. However, as was clear during these proceedings, uncertainties in Class III REC purchase obligation and the potential for adjustment have caused certain LSEs to decline participating in the REC market. Adjusting the Class III REC purchase obligation in the first or second quarter of the calendar year will alleviate that uncertainty, allow market participants to account for known and anticipated market conditions, and allow for generators to provide input as to generation constraints and to make operational decisions based on greater market certainties. If unanticipated changes occur after the first or second quarter of the calendar year, the Department would still retain the ability to make a further adjustment to the Class III REC purchase requirement later in the year should it be necessary. Therefore BPC strongly supports consideration of future adjustments to the Class III purchase obligation early in the first or second quarter of the calendar year.

10. BPC appreciates the Department's thought and consideration.

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



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

Certificate of Service

I hereby certify that I transmitted a copy of this filing to the current service list in this
Docket this 10th day of March, 2022.



Eric A. Maher, Esq.