

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF ENERGY**

ELECTRIC RENEWABLE PORTFOLIO STANDARD

Adjustment to Renewable Portfolio Standard 2023 Class III Requirement

Order Setting 2023 Class III Obligation

In this Order, the Department of Energy (Department) decreases the New Hampshire Renewable Portfolio Standard (RPS) Class III requirement for compliance year 2023 from eight percent (8%) to one-half percent (0.5%), pursuant to RSA 362-F:4, VI. Class III renewable energy means electric energy generated using eligible biomass or landfill methane gas that meets the requirements of RSA 362-F:4, III. The Department is responsible for administering the RPS under RSA 362-F. Specifically, pursuant to RSA 362-F:4, VI, the Department has the authority to modify the requirement to an amount equal to between 85 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.

By Order of Notice issued on January 17, 2024, the Department notified stakeholders it would investigate whether it should adjust the RPS Class III requirement for compliance year 2023 (CY 2023). Compliance for 2023 can be satisfied by providers of electricity with renewable energy certificate (REC) purchases made by June 15, 2024, or with alternative compliance payments (ACPs) made by July 15, 2024. To help inform its decision, the Department solicited written public comments from stakeholders and held a public comment hearing on the matter.

The Department received public comment relative to the availability of New Hampshire Class III RECs and the demand for New Hampshire Class III RECs based on regional market conditions for CY 2023. The Department held a public comment hearing on February 7, 2024. At that public comment hearing, the Department heard from the New Hampshire Electric

Cooperative, Inc. (NHEC) and Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource). Prior to the public comment hearing, the Department received written comments from NHEC; Constellation New Energy, Inc. (Constellation); First Point Power (FPP); and the Retail Energy Supply Association (RESA).

The order of notice, written comments, and other filings and documents related to this matter, other than any information for which confidential treatment has been requested of or granted by the Department, are posted on the Department's website.¹

I. STAKEHOLDER COMMENTS SUMMARY

A. NHEC

NHEC submitted written comments on February 1, 2024, and commented at the hearing, stating that there is a scarcity of Class III RECs for 2023. NHEC recommended reduction of the 2023 Class III obligation to 0.5% of annual sales as was ordered in 2014 through 2016, and again in 2022.

B. Eversource

At the comment hearing, Eversource requested that the Department reduce the obligation to the lowest level possible that remains consistent with legislative requirements.

C. Constellation

Constellation submitted written comment on January 31, 2024, urging the Department to exercise the State's authority under RSA 362-F to reduce the 2023 compliance year obligation by the maximum amount.

¹ <https://www.energy.nh.gov/renewable-energy/2022-compliance-year-class-iii-obligation-review>

D. First Point Power

First Point Power submitted written comments on January 23, 2024, stating they have not procured any RECs to satisfy the 2023 Class III requirement and they intend to pay the ACP for any such requirement. As such, First Point Power supports reducing the requirements by the maximum permitted reduction.

E. RESA

RESA submitted written comments on February 1, 2024, recommending that the Department reduce the 2023 Class III compliance obligation to the maximum extent permitted.

II. ANALYSIS AND CONCLUSION

Pursuant to RSA 362-F:4, VI, after notice and hearing, the Department may modify the RPS Class III requirement, “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.”

Prior to the creation of the Department in 2021, that authority rested with the Public Utilities Commission (Commission), which historically found good cause to reduce the Class III compliance obligation for a particular year based on a showing that Class III RECs were reasonably expected to be unavailable for New Hampshire RPS compliance because those RECs would be used for compliance in other states with higher ACP rates. *See* Order No. 26,472 at 8 (April 20, 2021) (“based on the comments received and other Commission reports and analysis, we find there is unlikely to be a significant number of Class III RECs available for purchase to meet the New Hampshire CY 2020 obligations because those RECs are likely to be used for

compliance in other states with higher ACP rates and demand for such RECs.”). In 2023, the Department noted similar concerns in its April 11, 2023 *Order Setting 2022 Class III Obligation*, which set the RPS obligation at 0.5 percent of total retail sales.

Based on the comments received, it appears that there is unlikely to be a sufficient number of Class III RECs available to meet the New Hampshire obligation for the 2023 compliance year. This is due to both reduced total production of Class III-eligible RECs and the strong likelihood that eligible RECs will be used for compliance in other states. The anticipated unavailability is due in large part to the statutory requirement that the New Hampshire Class III ACP rate be set at \$38.89 for CY 2023, and adjusted based on the Consumer Price Index as published by the Bureau of Labor Statistics of the United States Department of Labor. This comparably low ACP rate likely caused providers to purchase available Class III RECs for settlement in other states within the regional marketplace. *See* RSA 362-F:10, II-III. Accordingly, it is appropriate to exercise the Department’s authority under RSA 362-F:4, VI to reduce the Class III RPS obligation for CY 2023.

In determining how much to reduce that obligation, the Department reviewed the total amount of Class III-eligible RECs produced through the third quarter of CY 2023, as well as the number of Class III-eligible RECs produced during the fourth quarter of CY 2022, as that data is available through public reports posted by NEPOOL GIS.² The Department also reviewed available banked RECs, and publicly-available information such as quarterly emissions reports filed by Class III-certified biomass facilities that indicate a number of facilities were non-operational throughout 2023. The Department also considered the current ACP rates in other

² GIS Certificate Statistics. Available online at <https://www.nepoolgis.com/public-reports/>

states, including Connecticut and Massachusetts, and public comments regarding the demand for RECs in other states, the supply of available RECs, and relevant market conditions.

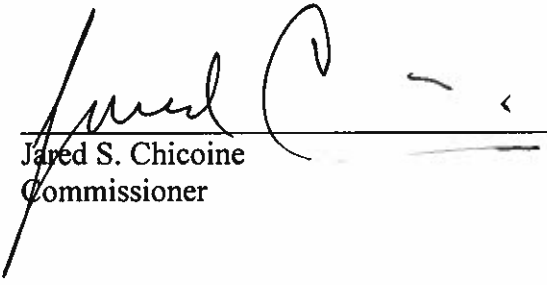
A total of 412,951 RECs were minted with New Hampshire Class III eligibility through the third quarter of 2023. In the absence of fourth quarter REC data for CY 2023, which will not be available in full until after April 15, 2024, Class III eligible REC data for the fourth quarter of 2022 represents a reasonable proxy for estimating the quantity of Class III RECs available for purchase for quarter four of CY 2023 (prior to consideration of regional marketplace dynamics driving available REC supply to Connecticut and Massachusetts). Using these data points, the Department anticipates a total of 119,123 NH Class III RECs for quarter four of CY 2023. Those assumptions support a total Class III production estimate of 532,074 RECs, a quantity lower than past years' Class III REC-eligible production.

Public commenters generally requested that the obligation be set as low as possible. Based on the public comments and Department analysis, it is likely there will be lower availability of Class III RECs for New Hampshire CY 2023 compliance than were available for CY 2022, but that the availability is more than zero, even after taking into account regional market conditions. The CY 2023 Class III RPS obligation therefore will be set at one-half percent (0.5%) of the total retail sales by each electricity provider to its end-use customers. That level is believed to reflect a reasonable approximation of Class III REC availability falling within the 85% to 95% range specified in the RPS statute.

Based upon the foregoing, it is hereby

ORDERED, that, pursuant to RSA 362-F:4, VI, the New Hampshire Renewable Portfolio Standard Class III requirement for the 2023 compliance year is set at one-half percent (0.5%) of retail electricity sales.

So ordered March 5th, 2024.



Jared S. Chicoine
Commissioner