



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

February 20, 2013

The Honorable Russell Prescott, Chairman
Senate Energy and Natural Resources Committee
Legislative Office Building, Room 102
Concord, NH 03301

Re: SB 148-FN Relative to Electric Renewable Portfolio Standards

Dear Chairman Prescott and Members of the Committee:

The Department of Environmental Services (DES) appreciates the opportunity to comment on Senate Bill 148, relative to electric renewable portfolio standards (RPS). This bill would revise the provisions of New Hampshire's RPS statute (RSA 362-F *Electric Renewable Portfolio Standard*) related to Class III (Existing Biomass/Methane), amending the standards for 2013 and 2014, as well as the alternative compliance payment (ACP) requirement, and provide for refunds to electricity providers (on behalf of customers) for 2012 payments to the Renewable Energy Fund in excess of \$6,000,000. The bill would also establish a committee to "*study the shortfall potential and reasons for the shortfall potential in the purchase percentage requirements of RSA 362-F:3...*".

Other than supporting the study committee provision (with additional recommendations noted below), DES does not take a position regarding the proposed class requirement revisions, which are rightly the purview of the General Court. However, it is important to note that amendments to the RPS statute have been considered several times since its adoption in 2007, with substantive revisions resulting from the passage of SB 218 in the 2012 session. Addressing the issue of state energy policy, the November 2012 *Final Report on the New Hampshire Independent Energy Study* from the Energy Efficiency and Sustainable Energy Board (pursuant to SB 323, 2010) noted the need for a "clear, coordinated and consistent policy and program landscape", and in particular pointing out the deleterious impact of "frequent modifications" to New Hampshire energy programs. Therefore, DES would urge appropriate caution when considering additional changes to this statute in the short term without fully understanding market factors that could result in unanticipated and/or unintended consequences.

DES understands this bill intends to address the significant Class III alternative compliance payments to the Renewable Energy Fund received in 2012 (for the 2011 compliance period), and concurs that RPS compliance via increasing NH Renewable Energy Certificate (REC) supply is preferential to payment of ACPs. However, it is unclear what level of analysis supports the proposed revisions, or that there is any degree

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of certainty they will actually achieve the desired result. The market for NH RECs is complex in nature, and also influenced by the regional nature of the New England electric system “grid” and differing state RPS requirements. It is important to understand that the REC “shortfall” resulting in these payments was most likely the result of regional differences in ACPs, providing an incentive to preferentially provide RECs from sources certified in NH for compliance in other state markets, while paying lower NH ACPs. The Senate may wish to consider revising the study committee charge to additionally include the impact of other RPS statutes in the region, the regional nature of the REC market and resulting market participant behavior, and making recommendations for an appropriate data and analysis driven mechanism for recommending any future revisions to Class requirements or ACPs.

In 2011, the PUC conducted an extensive review of the RPS program, including several meetings to seek market information and stakeholder input. In its report¹, the PUC recommended, and DES supports the recommendation, to:

“Maintain the existing class obligations in favor of policy consistency and predictability for the renewable energy industry, particularly given the inability of NH to significantly affect the regional REC market and the potential for increased rate impacts if the class obligations were to increase.”

The NH RPS statute includes obligations out to 2025, and potentially beyond. One of the reasons for this extended time horizon is to provide some level of regulatory certainty necessary for long term renewable facility business development planning. Absent such certainty, developers’ ability to secure financing supported by anticipated REC income is significantly impaired. DES feels long term market stability is the best solution for ensuring compliance with the RPS, as the goal of the program is to see increased development of renewable resources in the region, as opposed to alternative compliance payments. Any proposed revisions should be based on sound market information and analysis, and carefully consider any long term implications.

Thank you for your consideration in this matter, Should you have any questions or require further information, please contact Craig Wright, Acting Director of the Air Resources Division (craig.wright@des.nh.gov, 271-1088) or Michael Fitzgerald, Administrator, Technical Services Bureau (Michael.fitzgerald@des.nh.gov, 271-6390).

Sincerely,


Thomas S. Burack
Commissioner

cc: SB 148 sponsors
Amy Ignatius, Commissioner, Public Utilities Commission

¹ PUC Report dated November 1, 2011 <http://www.puc.nh.gov/Shas/previouslysustainable%20Energy/RPS/RPS%20Review%202011.pdf>