



The State of New Hampshire  
**Department of Environmental Services**



**Robert R. Scott, Commissioner**

February 6, 2019

The Honorable Robert Backus  
Chair, Science, Technology, and Energy Committee  
Legislative Office Building, Room 304  
Concord, NH 03301

**RE: HB 157, *An Act relative to the class rate for biomass***

Dear Chair Backus and Members of the Committee:

Thank you for the opportunity to testify on HB 157. This bill is purported to increase the class rate for biomass, delete certain criteria for inclusion of methane gas as a class III renewable energy source, and change the exemption period for certain electrical supply contracts. The New Hampshire Department of Environmental Services (NHDES) takes no position on this bill as drafted, but offers the following information for the committee's consideration. NHDES would like to make the Committee aware of the findings in the New Hampshire Public Utility Commission's (PUC's) Renewable Energy Fund (REF) annual report and the PUC's Renewable Portfolio Standard (RPS) 2018 Review.

HB 157 states: *"By January 31, [2020] 2018 the commission shall compute the [2020] 2018 class III rate to equal the rate that would have resulted in [2020] 2018 by the application of subparagraph (a) to the 2013 rate and each subsequent year's rate to [2020] 2018."* First, NHDES questions how this could be applied retrospectively, and NHDES will assume that the intent was to change the date to 2019 rather than 2018.

Under RSA 362-F:4, VI, the PUC already may modify the Class III requirements. The PUC's REF Annual Report states:

*"During previous years, New Hampshire facilities producing Class III RECs were able to sell the RECs they produced at a higher price in the Class I REC markets in Connecticut and Massachusetts than in the Class III REC market in New Hampshire. For compliance years 2013, 2014, 2015, and 2016, the Commission modified the Class III obligations reducing the requirement from 8.0% to 0.5% of an electricity provider's retail sales. This action prevented a substantial shortfall of Class III RECs and significantly higher ACPs, the cost of which is ultimately borne by New Hampshire ratepayers. Due to changed market conditions resulting from policy changes in other states, the Commission did not reduce the Class III requirement for compliance year 2017. With a Class III obligation equal to 8% in CY17, ACP revenue was \$1,358,225 compared to \$24,480 for CY16 (obligation equal to 0.5%)."*

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Table 3 of the report shows that one (TransCanada Power Marketing, Ltd.) supplier that chose to pay Alternative Compliance Payments (ACPs) rather than obtain Renewable Energy Certificates (RECs) accounted for more than 99% of the Class III ACPs.

The analysis of HB 157 states that the bill would "increase" the class rate for biomass. However, the 2013 rate was \$31.50, so the bill language would actually decrease the rate as compared to the 2017 rate of \$55. Suppliers need lead time to plan in advance for purchases. Proposed changes to the RPS should not take immediate (nor retrospective) effect.

In general, NHDES supports market certainty and supports changes to the requirements that result from a thorough deliberative process by the PUC. The PUC's RPS 2018 Review report contained the following recommendation:

*"Maintain the existing Class III obligation for policy consistency and predictability. The Commission will continue to monitor the eligibility of available sources, other state's RPS policies, and anticipated supply of Class III RECs. If necessary, the Commission will open a docket to determine if it is necessary to modify the Class III requirement for the calendar year, such that the requirement equals 85% to 95% of the reasonably expected potential generation from certified facilities after taking into account demand from RPS programs in other states."*

Thank you again for the opportunity to comment on HB 157. Should you have questions or need additional information, please feel free to contact either Michael Fitzgerald, Assistant Director ([michael.fitzgerald@des.nh.gov](mailto:michael.fitzgerald@des.nh.gov), 271-6390) or Joseph Fontaine, Technical Programs Manager ([joseph.fontaine@des.nh.gov](mailto:joseph.fontaine@des.nh.gov), 271-6794) of the Air Resources Division.

Sincerely,



Robert R. Scott  
Commissioner

cc: Sponsors of HB 157: Representatives Notter, Harrington, Aldrich, Barry, D. Thomas, and Torosian