



The State of New Hampshire
Department of Environmental Services



Robert R. Scott, Commissioner

February 4, 2020

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

RE: HB 1364, AN ACT relative to payments into the Renewable Energy Fund (REF) in lieu of meeting Renewable Portfolio Standards (RPS) requirements for biomass

Dear Chair Backus and Members of the Committee:

Thank you for the opportunity to testify on HB 1364. This bill removes the requirement for Class III (biomass) alternative compliance payments (ACPs) into the Renewable Energy Fund (REF) administered by the Public Utilities Commission (PUC). In addition, this bill finds that biomass contributes to climate change through greenhouse gas emissions. 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. Under the RPS, biomass plants are required to limit their emissions of particulate matter and nitrogen oxides and may be net zero for greenhouse gas emissions. In that regard, NHDES considers these plants and their continued operation to be environmentally beneficial. NHDES would like to make the Committee aware of the findings in the PUC's REF Annual Report and the PUC's Renewable Portfolio Standard (RPS) 2018 Review.

Under RSA 362-F:4, VI, the PUC already may modify the Class III requirements. The PUC's REF Annual Report dated October 1, 2018 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%)."

Table 3 of the report shows that one supplier, TransCanada Power Marketing, Ltd., who chose to pay Alternative Compliance Payments (ACPs) rather than obtain Renewable Energy Certificates (RECs) accounted for more than 99% of the Class III ACPs. Class III ACP revenues were \$0 in 2018, indicating ample supply.

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In general, certainty benefits the market and changes to the requirements that result from a thorough deliberative process by the PUC are ideal. 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."

Suppliers need lead time to plan in advance for purchases. Therefore, proposed changes to the RPS should not take immediate effect.

Finally, the Committee may wish to note that on November 1, 2018, U.S. Environmental Protection Agency (EPA) Acting Administrator Andrew Wheeler, along with U.S. Department of Agriculture (USDA) Secretary Sonny Perdue and U.S. Department of Energy (DOE) Secretary Rick Perry, sent a letter to the Senate and House Committees on Appropriations.¹ The letter describes the agencies' work to ensure consistent federal policy on forest biomass energy and promote clear policies that encourage the treatment of forest biomass as a carbon-neutral renewable energy solution.

Thank you again for the opportunity to comment on HB 1364. Should you have further questions or need additional information, please feel free to contact either Michael Fitzgerald, Assistant Director (michael.fitzgerald@des.nh.gov, 271-6390) or Joseph Fontaine, Technical Programs Manager (joseph.fontaine@des.nh.gov, 271-6794) of the Air Resources Division.

Sincerely,



Robert R. Scott
Commissioner

cc: Sponsors of HB 1364: Representative Harrington

¹ See https://www.epa.gov/sites/production/files/2018-11/documents/epa_usda_doe_response_to_congress_re_forest_biomass_11-1-18_1.pdf