R. Olson Law Office, PLLC
770 Broad Cove Road
Hopkinton, NH 03229

July 25, 2014

By Email

Meredith Hatfield, Director
NH Office of Energy & Planning
Gov. Hugh J. Gallen State Office Park
107 Pleasant Street
Concord, NH 03301

RE: Comments on the May 1, 2014 Draft Energy Strategy

Dear Director Hatfield:

The following comments on the May 1, 2014 draft New Hampshire Energy Strategy are submitted on behalf of Bridgewater Power Company, L.P., Pinetree Power, Inc., Pinetree Power-Tamworth, Inc., Springfield Power LLC, DG Whitefield LLC, and Indeck Energy - Alexandria, LLC (collectively referred to as the "Companies").

Each of the Companies owns and operates a wood-fired electric generating facility of less than 25 MWs located in-state. These facilities first became operational in the mid 1980's. Each facility has approximately 20 employees and based on a study undertaken by the New Hampshire Timberland Owners Association more than 400 individuals are employed in wood fuel procurement for the facilities. Each of the facilities sells its electrical output under short term contracts or in the ISO-NE day-ahead or real-time market. The facilities sell their renewable energy certificates ("RECs") in the renewable portfolio standard ("RPS") markets created by a number of New England States.

The Companies appreciate the opportunity to comment on the draft strategy as it pertains to the RPS and inform the Office of Energy and Planning and the advisory council of the significant role alternative compliance payment ("ACP") rates play in determining the amount of REC supply to the New Hampshire renewable portfolio standard ("NHRPS").

In the draft strategy the advisory council draft vision for renewable power generation in 2025 is described as including "further development of diverse renewable power generation assets [to help]…New Hampshire achieve its renewable portfolio standard target level." Draft Strategy at 59. The draft strategy's focus in the renewables area is on the development of additional resources to assist in achieving the draft vision. In furtherance of that vision the strategy concludes that the future use of biomass as a fuel be directed toward combined heat and power applications. It notes that "[a]dditional biomass capacity for electric only power generation is not recommended as a strategy for expanding renewable power generation." Draft Strategy at 61. The draft strategy does not explicitly address the contribution that existing facilities, such as those owned by the

Companies, could provide to assist in achieving the vision and what policy changes can be made to help realize that contribution. The Companies recommend that the strategy also promote the retention of existing renewables. This is particularly important given the actions of other states, discussed below, to reduce the amount of biomass in their RPS programs. Retention of existing renewables and increasing REC sales into the NHRPS can best be accomplished by addressing the ACP issues raised below.

The draft strategy for renewable power generation identifies "inadequate/improperly structured RPS, REC Prices, and ACP means renewables get built in NH to meet RPS out of state" as the "challenges/barriers" to achieving the 2025 renewables vision. Draft Strategy, Figure 5-11 at 64. The strategy recommendation made to address this "challenge/barrier" calls for an investigation of "whether the RPS targets and ACPs for each source are aligned with the economic potential of that source." Id.

The Companies maintain that the primary reason RECs are sold into the RPS programs of other states is not due to the assumption that the NHRPS may be "improperly structured". While the draft strategy does not clarify what it means by the reference to an improperly structured RPS, it bears noting that the NHRPS is similar in structure to, for example, the Massachusetts RPS. Both New Hampshire and Massachusetts use an ACP to create REC prices. Both require that a percentage of the retail load be from renewable power as evidenced by the purchase of RECs. Both use a multiple class system to target the type and amount of renewables each state seeks in its RPS. The NHRPS uses a four class system to create its desired mix of renewables. The Massachusetts RPS also uses a multiple class system comprised of a class I for new renewables, two classes of solar, and two classes of existing renewables: waste to energy and pre-1988 renewables.

The primary reason RECs are sold into RPS programs of other states is due to the level of ACP rates in the NHRPS and the effect those rates have on the REC price as compared to the ACP rate and resulting REC prices available in other state programs. For example, an ACP of $31 means that, regardless of supply scarcity, RECs can never sell for more than that ceiling price. If a REC seller can sell into another state's RPS with a $55 ACP, it will do so provided that ACP produces REC prices greater than those obtainable in the $31 ACP market. This is the situation today in the NHRPS class III market.

The Companies recommend that the final strategy identify the ACP rate policies and differentials as the prime "challenge/barrier" to achieving the renewables vision and delete the reference to "improperly structured RPS" as a "challenge/barrier". They also recommend that the final strategy contain a RPS ACP summary to illuminate the policy issues that result in REC sales into markets other than the New Hampshire REC market by existing renewables, such as those owned by the Companies, and new renewables.

The salient points in such a policy summary should include the following:

1. The original enactment of the NHRPS in 2007 set the class I ACP at $57.12. This was significant because that ACP was the same as the class I ACP in the Massachusetts RPS at the time and above the class I Connecticut ACP of $55. Generally, facilities qualifying in the class I NHRPS would also qualify in the class I Connecticut and Massachusetts RPS. The similarity in ACP rates allowed REC sellers to view these state programs more like a regional market. In the 2012

legislative session, the NHRPS class I ACP was adjusted such that it no longer would equal or track the Massachusetts class I ACP.

2. The original NHRPS class III ACP applicable to biomass and methane gas facilities that began operations prior to January 1, 2006 was $28. The 2014 ACP rate is $31.93. In the 2013 legislative session the NHRPS class III ACP was increased for the period 2015 to 2017 to $45. The ACP reverts to the original lower ACP methodology in 2018. The ACP in 2015 to 2017, however, remains below the Connecticut class I ACP of $55.

3. Eligible facilities in the Connecticut class I RPS include biomass generation facilities that meet a NOx emission standard that is the same as the NHRPS class III standard. The Connecticut class I RPS does not base eligibility on the year of facility initial operations. Thus, biomass facilities eligible in the $31 ACP class III NHRPS can also be eligible in the $55 ACP class I Connecticut RPS.

4. Certain states have acted to reduce the amount of out-of-state biomass generation in their RPS programs. In its 2013 legislative session Connecticut enacted Public Act 13-303 which makes significant changes to its RPS. Those changes include the preparation of a plan to phase-down the value of RECs obtained from class I existing biomass facilities. This phase-down is to be effective January 1, 2015. Depending on the level of phase-down, the plan could affect the market choices for class III NHRPS biomass. The Massachusetts Class II RPS is not a viable market given its historically low ACPs. Its 2014 ACP is $27.16.

A number of observations can be drawn from the forgoing points. First, the RPS is a regional market and facilities eligible in one state's RPS can also be eligible in another state's RPS. This is the case for many class I RPS programs and is the case for NHRPS class III and Connecticut class I. Generally, this breath of market enhances demand for RECs and helps to increase REC supply if REC prices are comparable in the market.

Second, the regional market can produce a shortage of RECs in any particular state market if the REC sellers perceive an ACP rate differential that will produce higher REC prices in another state, assuming adequate demand. This is particularly true in the case of NHRPS class III biomass facilities both at time of passage of the NHRPS and today. Many of those facilities qualify under the Connecticut class I RPS and sell RECs into that market because of the $23 REC price disparity arising from the $55 Connecticut ACP and the CPI adjusted 2014 NHRPS ACP of $31.93. The Connecticut RPS demand has been great enough to accommodate the Companies' facilities at a higher REC price. In effect, the $23 ACP differential creates a shortage in the supply for NHRPS class III.

A similar REC disparity may be occurring for those facilities that qualify in the NHRPS class I and the Massachusetts RPS class I. The ACPs under those programs started at the same rate but have now diverged. The CPI adjusted 2014 NHRPS class I ACP is $55.37 and the Massachusetts class I ACP is $66.16. Assuming adequate class I Massachusetts RPS demand and that an $11 ACP differential produces a REC disparity, facilities selling into a spot or short term REC market may favor the Massachusetts class I market over the NHRPS class I market.

Third, the passage of Public Act 13-303 by the Connecticut legislature creates uncertainty in future REC prices in Connecticut for biomass facilities. This fact also creates uncertainty in the supply of RECs in the NHRPS class III over time. Depending on the depth of Connecticut's reduction in the value of biomass RECs and the timing of the reduction, REC supply may increase in the class III NHRPS in the 2015 to 2017 timeframe. Class III NHRPS REC supply in 2018 and beyond is uncertain due to the revision to an ACP methodology that produces significantly lower class III ACP rates.

Fourth, assuming adequate REC demand, ACP rates determine REC supply into the various state RPS programs. Stated another way, increasing the price of a non-scarce good will produce more of that good. A variation of this point is implicit in the Connecticut phase-down and the Massachusetts class II RPS ACP rate. There, the policy is "paying less for a good will reduce the amount of the good supplied". Thus, if New Hampshire's strategy is to support existing biomass and increase NHRPS REC sales, then the final strategy should address the need for adequate and competitive ACP rates.

The New Hampshire Public Utilities Commission implicitly recognized many of these points in a recent docket, DE 14-104, Electric Renewable Portfolio Standard involving adjustments to the NHRPS purchase percentages in RSA 362-F:3. In adjusting the purchase percentage for class III, the Commission stated:

Several commenters stated that the underlying issue is that New Hampshire's Class III RECs are being sold almost exclusively into other states where ACP levels, as well REC prices, are higher. Therefore, to address the root cause of the Class III REC shortfall, the General Court may wish to explore the possibility of synchronizing the Class III ACP price with those of Connecticut and Massachusetts. Order 25,674 at 10 (June 3, 2014).

The Companies agree that the "root cause" of class III sales into other states is the lack of synchronizing the class III ACP with those of other jurisdictions and recommend that the final strategy include the Commission's statement as a recommendation.

Respectfully submitted on behalf of:

BRIDGEWATER POWER COMPANY, L.P.
PINETREE POWER, INC.,
PINETREE POWER-TAMWORTH, INC.,
SPRINGFIELD POWER LLC,
DG WHITEFIELD LLC, and
INDECK ENERGY – ALEXANDRIA, LLC

By Their Attorney,
R. OLSON LAW OFFICE, PLLC.

Robert A. Olson, Esq.
roanolson@gmail.com
603-496-2998