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December 6, 2016

Debra A. Howland  
Executive Director  
Public Utilities Commission  
21 S. Fruit Street  
Concord, NH 03301

***Re: Docket No. DE16-850– Modification of Renewable Portfolio Standard  
2016 Class I Thermal and 2017 Class III Requirements***

Dear Director Howland:

Constellation NewEnergy, Inc., (“Constellation”) a licensed retail electric supplier currently doing business in New Hampshire, hereby provides the following comments in response to the Order of Notice issued November 10, 2016 by the New Hampshire Public Utilities Commission (“Commission”).

**I. Background/Procedural History**

On November 10, 2016, the Commission issued an Order of Notice (“Notice”) in which it observes that New Hampshire’s energy suppliers may not be able to procure sufficient renewable energy certificates (“RECs”) to comply with New Hampshire’s renewable portfolio standard (“RPS”) requirements. The Commission cites to testimony it heard in recent default service hearings that while some Class III RECs had been obtained by a distribution company it is uncertain whether market conditions have changed such that sufficient Class III RECs are available to meet Class III portfolio requirements scheduled to increase for 2017. In the Notice the Commission also questions whether sufficient Class I Thermal RECs are generally available to meet 2016 Class I Thermal requirements.

As a result, the Commission, through the Notice, scheduled a public hearing for December 6, 2016 to take comment on whether it is appropriate for the Commission to adjust 2017 RPS Class III requirements and the 2016 Class I Thermal requirements.

## **II. Comments**

### **a. The Commission Should Reduce Class III RPS Obligation for 2017**

In 2015 Constellation submitted comments in DE15-477 concurring with the testimony of witnesses for Unitil and Liberty cited by the Commission in the order of notice for that proceeding that New Hampshire Class III RECs are generally not available in the New Hampshire REC market due to the use of the limited available RECs to meet RPS requirements in other states. As the Commission noted on March 13, 2015 in Order No. 25,768 (Docket DE15-035) Class III RECs are produced from facilities that began operation prior to January 1, 2006 and new facilities entering operation after such date are not eligible to produce Class III RECs. The result, both then and today, is that the number of Class III RECs has not increased and is not likely to increase in any meaningful way.

As a result of this constrained supply, Constellation and other electricity providers are not likely to be able to procure sufficient RECs to satisfy the Class III RPS requirements for the next several years. Given the inability to procure the necessary RECs, suppliers will be required to make substantial alternative compliance payments (“ACPs”) in lieu of purchasing RECs during these years. In fact, the constrained nature of Class III supply has been borne out in Constellation’s recent experience in seeking offers from Class III eligible resources in New Hampshire. The number of such eligible resources is quite small and Constellation has been unable to obtain supply from any of them on commercially acceptable terms.

While ACPs are an appropriate and effective means of containing the costs of RPS compliance, it is not in customers' best interest to require suppliers to pay a penalty where there simply is not enough supply to comply with the requirements. This result is bad for customers. Based on current and projected market conditions, Constellation therefore recommends that the Commission reduce the Class III obligation for 2017.

**b. The Commission Should Reduce the Class I Thermal Obligation for 2016**

In the Notice the Commission also questions the availability of Class I Thermal RECs to meet 2016 RPS requirements. Constellation notes that there are currently 17 licensed units eligible to provide Class I Thermal RECs. These units are quite small and Constellation has not found Class I Thermal RECs from these sources to be available in the over-the-counter REC market for New England, in which Constellation is an active participant.

Based on these observations Constellation submits that there is a current and expected shortage in the market of Class I Thermal RECs and Constellation recommends the Commission reduce the Class I Thermal obligation for compliance year 2016.

**III. Conclusion**

Constellation appreciates the opportunity to submit these comments and urges the Commission to adopt the recommendations contained herein.

Sincerely,

*/s/ Daniel W. Allegretti*  
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Daniel W. Allegretti  
Vice President, State Governmental Affairs