I. SUMMARY

Pursuant to this Order, the 0.430 MW run-of-river hydroelectric project located along the Goose River in Knox County, Maine (Facility) is certified as a Class I New Renewable Resource that is eligible to satisfy Maine’s new renewable resource portfolio requirement pursuant to Chapter 311, section 3(B) of the Commission’s rules.

II. BACKGROUND

A. New Renewable Resource Portfolio Requirement

During its 2007 session, the Legislature enacted an Act To Stimulate Demand for Renewable Energy (Act). P.L. 2007, ch. 403 (codified at 35-A M.R.S.A. section 3210(3-A)). The Act added a mandate that specified percentages of electricity that supply Maine’s consumers come from “new” renewable resources. Generally, new renewable resources are renewable facilities that have an in-service date, resumed operation or were refurbished after September 1, 2005. The percentage requirement starts at one percent in 2008 and increases in annual one percent increments to ten percent in 2017, unless the Commission suspends the requirement pursuant to the provisions of the Act. Since 2008, the percentage requirement has increased each year as contemplated by the Act, and the requirement for calendar year 2016 is 9 percent. Compliance with the new renewable resource requirement must be verified by electricity suppliers in annual reports that are filed with the Commission.

As required by the Act, the Commission modified its portfolio requirement rule (Chapter 311) to implement the “new” renewable resource requirement. Order Adopting

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1 Maine’s electric restructuring law, which became effective in March 2000, contained a portfolio requirement that mandated that at least 30% of the electricity to supply retail customers in the State come from eligible resources, which are either renewable or efficient resources. 35-A M.R.S.A. § 3210(3). The Act did not modify this 30% requirement.
Rule and Statement of Factual and Policy Basis, Docket No. 2007-391 (Oct. 22, 2007). The implementing rules designated the “new” renewable resource requirement as “Class I”\(^2\) and incorporated the resource type, capacity limit, and the vintage requirements as specified in the Act. The rules thus state that a new renewable resource used to satisfy the Class I portfolio requirement must be of the following types:

- fuel cells;
- tidal power;
- solar arrays and installations;
- wind power installations;
- geothermal installations;
- hydroelectric generators that meet all state and federal fish passage requirement; or
- biomass generators, including generators fueled by landfill gas.

In addition, except for wind power installations, the generating resource must not have a nameplate capacity that exceeds 100 MW. Finally, the resource must satisfy one of four vintage requirements. These are:

1) renewable capacity with an in-service date after September 1, 2005;

2) renewable capacity that has been added to an existing facility after September 1, 2005;

3) renewable capacity that has not operated for two years or was not recognized as a capacity resource by the ISO-NE or the NMISA and has resumed operation or has been recognized by the ISO-NE or NMISA after September 1, 2005; or

4) renewable capacity that has been refurbished after September 1, 2005 and is operating beyond its useful life or employing an alternate technology that significantly increases the efficiency of the generation process.

\(^2\) The “new” renewable resource requirement was designated as Class I because the requirement is similar to portfolio requirements in other New England states that are referred to as “Class I.” Maine’s pre-existing “eligible” resource portfolio requirement is designated as Class II.
Chapter 311, section 3(B)(4) of the Commission’s rules establishes a certification process that requires generators to pre-certify facilities as a new renewable resource under the requirements of the rule and provides for a Commission determination of resource eligibility on a case-by-case basis.\(^3\) The rule contains the information that must be included in a petition for certification and specifies that the Commission shall provide an opportunity for public comment if a petitioner seeks certification under vintage categories 2, 3, or 4. Finally, the rule specifies that the Commission may revoke a certification if there is a material change in circumstance that renders the generation facility ineligible as a new renewable resource.

B. Petition for Certification

On March 15, 2016, Goose River Hydro Inc. (Goose River) filed a petition to certify its Facility as a Class I New Renewable Resource under the resumed operations provision of the Commission’s renewable portfolio rules. Ch. 311, § 3(B)(3)(c). According to the petition, the Facility consists of five existing dams, four of which include power developments. Further, the Facility was energized in August 2014 after an eleven year hiatus in operations.

An opportunity for comment was issued on March 21, 2016. No comments were received. The Commission Staff issued an information request on April 11, 2016 requesting a clarification concerning the location of the Project and documentation supporting both the resumed operation date of the Facility and how the Facility meets fish passage requirements. Goose River filed responses on May 31 and June 6, 2016.

III. DECISION

After considering Goose River’s Petition and the additional information provided by Goose River in response to Staff’s questions, the Commission finds that the Facility satisfies the resource type, capacity limit, and vintage requirements of Chapter 311, section 3(B)(3)(c), and therefore its full output qualifies as a Maine Class I New Renewable Resource. The Facility is a hydroelectric generator that meets all fish passage requirements (Goose River represents that the Facility has no fish passage requirements at this time, and the publicly available documents supplied by Goose River and reviewed by Staff do not present any evidence to the contrary). Additionally, the total Goose River generating station capacity does not exceed 100 MW.

Finally, the Facility satisfies the restart vintage category set forth in Chapter 311, Section 3(B)(3)(c). The technical information placed in the record demonstrates that the Facility was not generating electricity or otherwise operating for two consecutive years prior to September 1, 2005. Goose River provided NEPOOL GIS monthly generation records from January 2002 to April 2016 and NEPOOL (later ISO-NE) CELT Reports for 2002 through 2010, and both indicate Goose River was not operating for two

\(^3\) In the Order Adopting Rule at 6, the Commission noted that a request for certification can be made at any time so that a ruling can be obtained before a capital investment is made in a generation facility.
consecutive years prior to September 1, 2005. Further, a FERC letter dated September 4, 2003 states that the Facility was not operational on the date of inspection (August 12, 2003) and that it had not operated since January 2003. Letter requesting Goose River Hydro, Inc. to submit within 30 days a plan and schedule outlining the proposed repair plan as necessary to resume generation at both the Mill and CMP Development under P-2804, FERC Docket No. 2804-000 (Sept. 4, 2003). A subsequent FERC letter dated May 17, 2006 states that the facility was again not operational on the date of inspection (May 11, 2006), although the owner at that time represented in discussions during the inspection that the Facility had last operated in the summer of 2005. Letter requesting Goose River Hydro, Inc to provide a plan & schedule for addressing the penstocks’ problem by 6/18/06 re the Goose River Project under P-2804, FERC Docket No. 2804-000 (May 17, 2006). While the previous owner represented to FERC that the facility operated in the summer of 2005, NEPOOL generation records do not support this claim. Therefore, record information, including the generation records, the CELT Reports, and the findings of both FERC on-site visits detailed in the aforementioned letters, indicates that the Facility was not, in fact, operational for two consecutive years prior to September 1, 2005.4

Accordingly, the Commission

ORDERS

1. The electrical generation of the Goose River hydroelectric project is hereby certified as a Class I New Renewable Resource eligible to satisfy Maine’s New Renewable Resource portfolio requirement pursuant to Chapter 311, section 3(B)(3)(c) of the Commission rules;

2. Goose River Inc., or the Facility’s successive owner, shall file in this docket any further information that it receives from FERC demonstrating the operational status of its hydroelectric project from January 1, 2002 until September 1, 2005; and

3. Goose River Inc., or the Facility’s successive owner, shall provide timely notice to the Commission of any material change in the character or operation of the Facility from that described in the petition filed in this proceeding.

Dated at Hallowell, Maine, this 14th day of July, 2016.

BY ORDER OF THE COMMISSION

/s/ Harry Lanphear

Harry Lanphear
Administrative Director

4 Goose River is in the process of obtaining confidential documents from FERC and has indicated its intent to file those documents upon receipt.
COMMISSIONERS VOTING FOR:  Vannoy
                     Mclean
                     Williamson
NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. **Reconsideration** of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought. Any petition not granted within 20 days from the date of filing is denied.

2. **Appeal of a final decision** of the Commission may be taken to the Law Court by filing, within 21 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.

3. **Additional court review** of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

**Note:** The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.