I. SUMMARY

Pursuant to this Order, the Recovery Boiler, Power Boiler, and two Turbine Generators (collectively, the Facility) of Woodland Pulp LLC (Woodland Pulp) located in Baileyville, Maine 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, § 3(B) of the Commission’s rules. This certification is for the generation from the steam produced by the combustion of renewable biomass in the Facility, pursuant to the calculation specified in this Order.

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. § 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.

As required by the Act, the Commission modified its portfolio requirement rule (Chapter 311) to implement the “new” renewable resource requirement. Order Adopting Rule and Statement of Factual and Policy Basis, Docket No. 2007-391 (Oct. 22, 2007). The implementing rules designated the “new” renewable resource

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.
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.

Chapter 311, § 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

\(^2\) 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.

\(^3\) 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.
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 January 24, 2017, Woodland Pulp filed a petition to certify its Facility as a Class I New Renewable Resource under the refurbishment provision of the Commission’s renewable portfolio rules. Ch. 311, § 3(B)(3)(d). Pursuant to a protective order that was issued by the Commission Staff, Woodland Pulp supplemented its petition with confidential documents on January 25, 2017. As required by our rules, the Commission provided interested persons with an opportunity to comment on Woodland Pulp’s Petition. No comments were received.

According to the petition, the Facility consists a No. 3 Recovery Boiler (installed in 1989), a No. 9 Power Boiler (installed in 1971), and two steam turbine generators (the first installed in 1964 and the second installed in 1970). Woodland pulp asserts that the life expectancy of the boilers is 20 years.

The Recovery Boiler is fueled primarily by black liquor and the Power Boiler is fueled primarily by “hog fuel” consisting of bark from on-site chipping. Both boilers also use natural gas for startup and shutdown and certain other system functions. In Section VII of its petition, Woodland Pulp describes its proposed methodology for measuring the electricity produced from qualifying biomass. This methodology is incorporated into this Order by reference, but, generally, Woodland Pulp proposes to measure the steam produced from each boiler using existing meters. The total steam produced is then reduced to the percentage that comes from eligible biomass resources. Lastly, this percentage figure is multiplied against the total electrical generation from the turbines to determine the proportion of electricity produced from eligible biomass resources.

Woodland Pulp has identified over $20 million of capitalized claimed refurbishment investments made in the boilers. The petition included a list of examples of these refurbishment investments. Woodland Pulp also provided a confidential spreadsheet that detailed the book value of the Facility and its components, the refurbishment projects, and the amount capitalized for each project relating to each boiler and the turbine generator. Woodland Pulp further explains that its petition only

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4 As identified in the petition, Woodland Pulp’s refurbishments included: relating to the recovery boiler, smelt spout upgrade; stack top section replacement; FSC swing arm, precipitator upgrade; ID fan and feed water pump drives VFD; non condensable / high volume low concentration organic gas project; new sootblowers; and relating to the power boiler, emissions control system upgrades; bark fuel system improvements; new automatic blowdown; new front wall section; induced draft and forced draft fan drives VFD; hot side generator bank retube; and nose arch replacement; bark system (trough and redder bin). Woodland Pulp also identified an oil to natural gas conversion project which relates to both boilers.
includes “true capital expenditures” and not other maintenance projects that could also meet the refurbishment standard. Finally, the Facility the refurbishments and book value include an oil to natural gas conversion project. This project is similar to another presented to the Commission in Verso Androscoggin LLC Request for Certification for RPS Eligibility, Docket No. 2015-00325, Order Granting New Renewable Resource Certification (Apr. 1, 2016). In that Order, the Commission approved the petition for certification without making a specific determination as to whether the natural gas conversion project constituted refurbishment pursuant to statute. Woodland Pulp requests that if the Commission now determines that its natural gas conversion project should not be characterized as a refurbishment, that the value of this project also be removed from the Facility’s book value for purposes of analysis. Finally, although the petition does not explicitly state that the Facility operates behind-the-meter, this appears apparent from the petition and Woodland Pulp has confirmed with Commission Staff that the Facility serves its load behind-the-meter.

III. DECISION

After considering Woodland Pulp’s petition and supplemental filings, the Commission finds that Woodland Pulp’s Facility has been refurbished and is operating beyond its useful life pursuant requirements of Chapter 311, section 3(B)(3)(d), and therefore qualifies as a Maine Class I New Renewable Resource. The specific elements of Class I New Renewable Resource eligibility – resource type, capacity limit, and vintage – are discussed in turn below, in addition to special obligations particular to this Facility relating to behind-the-meter generation and the methodology for calculating RECs.

A. Resource Type

According to Woodland Pulp’s petition and supplemental submissions, the Facility generates electricity by burning a combination of RPS eligible and non-RPS eligible fuels. Woodland Pulp is requesting certification of the portion of fuels that would qualify as biomass under Chapter 311.

In the Commission’s Order adopting Chapter 311, the Commission concluded that, “without further legislative direction and in light of the unqualified statutory term ‘biomass,’ the Commission would adopt a relatively broad definition that includes all fuel derived from wood and wood byproducts (along with other organic sources).” Public Utilities Commission Amendments to Portfolio Requirement Rule (Chapter 311), Docket No. 2007-397, Order Adopting Rule and Statement of Factual and Policy Basis (Oct. 27, 2007). Further, in the Commission’s Order certifying the Lincoln Paper and Tissue biomass facility as a Class I New Renewable Resource, the Commission found that the fuel used in the Lincoln facility, including wood waste, process sludge and black liquor, constituted biomass under Maine’s RPS law. Lincoln Paper and Tissue, LLC Request for Certification for RPS Eligibility, Docket No. 2008-173, Order Granting New Renewable Resource Certification at 6 (Jan. 27, 2009). Consistent with these prior
decisions, we find that the biomass fuel mix of the Facility boilers, identified in the petition as black liquor and hog fuel, is an eligible renewable resource.

B. Capacity Limit

Chapter 311, section 3(B)(2) provides that a new renewable resource other than wind must not have a nameplate capacity that exceeds 100 MW. The Commission has found that the capacity limit applies to the total renewable resource portion of a facility. While Woodland Pulp’s petition does not address the capacity of the Facility, the confidential supporting documents clearly demonstrate a combined capacity of less than 100 MW. Because this generation capability is below 100 MW, we find that Woodland Pulp has satisfied the capacity limit element for Class I New Renewable Resource eligibility.

C. Vintage

Woodland Pulp seeks certification under the refurbishment prong of the vintage criteria contained in Chapter 311, section 3(B)(3)(d). This refurbishment prong is also contained in the definition of “New” as applied to any renewable capacity resource in 35-A, MRSA § 3210(2)(B-4). The refurbishment prong defines a new renewable resource as a generation facility that:

- Has been refurbished after September 1, 2005 and is operating beyond its previous useful life or is employing an alternate technology that significantly increases the efficiency of the generation process.

This prong is a two part test that requires the Commission to first determine whether the facility has been “refurbished,” and then to determine whether the facility is operating beyond its previous useful life or employing an alternate technology that significantly increases the efficiency of the generation process.

To clarify the meaning of refurbishment, the Legislature enacted an amendment to the refurbishment prong of the vintage requirement. Pursuant to the statutory amendment, “to refurbish” means “to make an investment in equipment or facilities,

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5 In the Commission’s Order certifying the Verso Bucksport biomass facility as a Class I New Renewable Resource, the Commission found that since Chapter 311, section 3(B)(1) defines a new renewable resource as a generation facility that generates electricity with the renewable fuels set forth in the rule, it would consider only the portion of the Bucksport Paper Mill’s nameplate capacity attributable to the renewable output, namely the Bucksport Biomass Plant, as constituting the renewable capacity resource. Verso Bucksport LLC, Request for Certification for RPS Eligibility, Docket No. 2011-102, Order Granting New Renewable Resource Certification at 6 (Nov. 23, 2011).
other than for routine maintenance and repair, to renovate, reequip or restore the renewable capacity resource.” 35-A M.R.S.A. § 3210(2)(B-4).  

As stated by the Maine Law Court, the purpose of the refurbishment provision is to encourage the preservation of older existing renewable generation facilities by creating an incentive for owners to make the investments necessary to preserve and extend the useful lives of these older facilities. Covanta Maine, LLC v. Public Utilities Commission, 2012 ME 74, ¶ 16 (2012) (Covanta).

Pursuant to the Law Court’s analysis in Covanta, in the course of making its determination regarding whether there has been a refurbishment, the Commission must consider the nature and character of the expenditures to determine whether they were made for the purpose of repair or maintenance or for investment in equipment or facilities. Covanta, 2012 ME 74, ¶¶ 17, 19.

i. Refurbishment

The Commission’s practice in assessing whether a generation facility has been refurbished is to examine a collection of factors, including, but not limited to, the condition of the facility prior to the investments and the nature of the expenditures to determine whether they appear to be related to routine maintenance and repair.

Woodland Pulp has provided a list of capital investments made to its Facility totaling over $20 million. Woodland Pulp has also identified as a refurbishment a natural gas conversion project, recognizing that the Commission has not previously determined whether this particular investment is a refurbishment. Because on the whole, even after removing the natural gas conversion project, Woodland Pulp’s aggregated refurbishment investments go beyond routine maintenance or repair, this Order does not address the eligibility of that or any other project in particular. Rather, we find that the nature, character, and scope of Woodland Pulp’s investments in the Facility in the aggregate are sufficient to certify the renewable-based electrical generation derived from the Facility as consistent with the statutory definition of a generation facility that has been refurbished after September 1, 2005.

ii. Operating Beyond the Facility’s Previous Useful Life

Woodland Pulp seeks qualification of its investments under the useful life sub-prong of the refurbishment vintage category, asserting that the life expectancy of the Facility boilers is twenty years. The Commission has previously accepted a useful life

\[6\] The Commission interprets this language as making “explicit the Commission’s existing practice of disregarding investments made for routine maintenance and repair when looking at whether a facility has been refurbished.” Verso Bucksport LLC, Request for Certification for RPS Eligibility, Docket No. 2011-102, Order Granting New Renewable Resource Certification at 7, fn. 10 (Nov. 23, 2011).
of twenty years for similar technologies. Consistent with these findings, the Facility, with boilers aged forty-three years and twenty-six years, is operating beyond its previous useful life.

D. Methodology for Calculating RECs

The methodology proposed by Woodland Pulp to measure qualifying output from the Facility is similar to the proportional method that has been approved by the Commission on several occasions. Put simply, this method prorates the total electrical output of the turbine generators by the percentage of steam produced from the boilers that comes from Class I eligible fuel inputs, here black liquor and hog fuel, relative to the total steam produced. The product of this calculation equals the REC production of the Facility.

The Commission generally favors the proportional method for calculating RECs due to its simplicity, objectivity, and replicability. Such a method enables those who have not been involved in this proceeding and who may be less familiar with a particular plant to understand and verify the calculation more easily. Therefore, we approve the methodology proposed by Woodland Pulp and described above for calculating eligible REC generation associated with the Facility. As in past orders approving a methodology for calculating REC eligible generation, approval here is subject to annual reporting requirements. In its report, among other requirements, Woodland Pulp will be expected to demonstrate how amount of steam produced from auxiliary fuel is determined, in accordance with the proposed methodology included in the petition.

E. Behind-the-Meter

The Commission’s standard for RPS certification applicants that generate behind-the-meter has been to permit certification if the facility otherwise qualifies, but to require the applicant to retain GIS certificates or otherwise obtain GIS certificates

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necessary to satisfy Maine's RPS (both the original 30% and the “new” requirement) for that portion of the load that is served by the facility behind-the-meter.\footnote{Id. at 8 (“The rationale for certifying the [facility] as a Class I resource is that it is a newly refurbished renewable facility that serves Maine load. Therefore, the service of that load should comply with the RPS requirements as would occur if that load was served by a competitive electricity provider or if [the applicant] chose to sell its generation into the market and purchase all of its electricity needs.”); see also RTT Solar, LLC, per pro. Revision Energy, LLC, Request for Certification for RPS Eligibility, Docket No. 2012-00547, Order Granting New Renewable Resource Certification at 9 (May 30, 2013).} Therefore, Woodland Pulp is required to submit to the Commission an annual report by October 1st of each year that demonstrates compliance with this requirement.

Accordingly, the Commission

ORDERS

1. That the electrical generation of the Woodland Pulp Facility derived from the renewable output of the Recovery Boiler, Power Boiler, and two Turbine Generators is certified as a Maine Class I New Renewable Resource.

2. That Woodland Pulp shall use the Proportional Method to calculate qualifying RECs consistent with this Order and Woodland Pulp's January 24, 2017 petition;

3. That Woodland Pulp, on an annual basis beginning on October 1, 2017, shall file with the Commission a compliance report showing the full basis for the calculation of the RECs generated from the Woodland Pulp Facility. This report should include how the steam and electrical generation metering equipment associated with the Woodland Power Facility have been calibrated; how the metered data have been reviewed, and (if applicable) corrected for accuracy; and how the MMbtu content of the black liquor and natural gas combusted in the Recovery Boiler and the hog fuel and natural gas combusted in the Power Boiler have been established and verified;

4. That Woodland Pulp shall submit to the Commission an annual report by October 1st of each year that demonstrates compliance with the requirement that Catalyst must retain GIS certificates or otherwise obtain GIS certificates necessary to satisfy Maine's RPS (both the original 30% and the “new” requirement) for that portion of its load that is served by the Woodland Pulp Facility; and

5. That Woodland shall provide timely notice to the Commission of any material change in the characteristics or operation of the Woodland Pulp Facility, including the type of fuel used in the generation process, from that described in the submissions filed by Woodland Pulp in this proceeding. Woodland Pulp shall
also provide timely notice to the Commission of any material change in the characteristics or operation of other components of the Woodland Pulp Mill that materially impact the characteristics, operation, or eligibility for certification of the Woodland Pulp Facility.

Dated at Hallowell, Maine, this 22nd day of March, 2017.

BY ORDER OF THE COMMISSION

/s/Harry Lanphear

Harry Lanphear
Administrative Director

COMMISSIONERS VOTING FOR: Vannoy
Williamson

COMMISSIONER ABSENT: McLean
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.