STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2017-00024
April 27, 2017

SAPPI FINE PAPER NORTH AMERICA

ORDER GRANTING NEW
Request for Certification for RPS Eligibility
RENEWABLE RESOURCE
CERTIFICATION

VANNOY, Chairman; McLEAN and WILLIAMSON, Commissioners

I. SUMMARY

Pursuant to this Order, the output of the S.D. Warren Company d/b/a Sappi North America (Sappi) Hogged Fuel Boiler #1 System (the Facility) located at the Somerset Mill in Skowhegan, 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. 1 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 requirement as

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.
“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.

\(^2\) 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.
on a case-by-case basis. 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 February 2, 2017, Sappi 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). After a protective order was issued by the Commission Staff, Sappi supplemented its Petition with confidential documents filed in this docket on April 25, 2017. As required by our rules, the Commission provided interested persons with an opportunity to comment on Sappi’s Petition. No comments were received.

According to the Petition, the Facility generates electricity utilizing steam derived from No. 6 oil, tire derived fuel, and biomass, including recovered pulp and paper fiber sludge, self-generated bark, purchased biomass, and wood pellets. To calculate the energy attributable to eligible fuels combusted by the Facility, Sappi proposes to use the same proportional method that the Commission previously approved for the Somerset Mill Recovery Boiler. S.D. Warren Company D/B/A Sappi Fine Paper North America, Request for Certification for RPS Eligibility, Docket No. 2012-00488, Order Granting New Renewable Resource Certification (Sept. 5, 2013).

Sappi states the Facility provides steam to a common 900 psi steam header which then feeds steam to both turbine generators. A total of approximately 12 MW is generated from biomass in the Facility under normal conditions, and the total capacity of the turbine generators is 107.1 MW.

Sappi asserts that the Facility was installed in 1976, and as the expected useful life of a hogged fuel boiler is twenty years, the Facility is currently operating beyond its previous useful life. According to the Petition, the two turbines were installed in 1976 and 1990, respectively. In addition, Sappi claims that since September 1, 2005, the sum of all major refurbishments and capital invested into the Facility has totaled $5.65 million and that this level of investment equals 99% of the Facility’s current book value. This investment includes projects such as replacement of the west precipitator, replacement of the east precipitator, partial replacement of the generating bank, upgrades to the opacity meter, upgrades to the stoker grates, upgrades to the burner controls and flame scanner, replacement of the biomass distribution screw conveyor, and replacement of surge bin screws. Sappi also identified several refurbishments to the turbine generators, the cost of which have been prorated based on the Facility’s contribution to total steam flows to those generators.

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.
III. DECISION

After considering Sappi’s Petition and the additional information provided by Sappi in response to Staff’s questions, the Commission finds that the 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 Sappi’s Petition, the Facility generates electricity by burning a combination of RPS eligible and non-RPS eligible fuels. Sappi 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). Under this definition of biomass, we find that the fuel mix consisting of recovered pulp and paper fiber sludge, self-generated bark, purchased biomass, and wood pellets is eligible for Class I certification.

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 total nameplate capacity of the entire Sappi Somerset Mill is 107.1 MW, as represented by the generation limit of the turbines. While the entire nameplate capacity of the Mill exceeds the capacity limit, the Commission has found that the capacity limit applies to the total renewable resource portion of a facility.4 Because the Sappi Somerset Mill burns some fuel oil and tire derived fuel in its boilers, the renewable resource portion of the facility, namely the output from the combustion of biomass in the Recovery Boiler, Hogged Fuel Boiler #1, and Hogged Fuel

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4 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).
Boiler #2, has an apportioned nameplate capacity below 100 MW. Therefore, Sappi has satisfied the capacity limit element for Class I New Renewable Resource eligibility.

C. Vintage

Sappi 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, 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).5

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.

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5 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).
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.

Sappi has provided a list of capital investments made to its Facility totaling over $5.65 million, or 99% of the Facility’s book value. We do not make a finding on whether each of the projects included in Sappi’s filing independently meets the definition of a refurbishment investment. Rather, we find that the nature, character, and scope of Sappi’s investments in the Facility in the aggregate go beyond routine maintenance or repair. The aggregated refurbishment investments are therefore 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

Sappi seeks qualification of its investments under the useful life sub-prong of the refurbishment vintage category, stating that the usual expected life for a hogged fuel boiler is twenty years old and the Facility is now forty years old. Petition at 3. Consistent with our findings for the useful life of similar resources boilers, the Facility, at forty years old, is operating beyond its previous useful life.

D. Methodology for Calculating RECs

Sappi proposes a proportional method for calculating the REC output of the generation from the Sappi Somerset Mill Facility that is identical to the method approved by the Commission for the Somerset Mill Recovery Boiler. This method for calculating REC production determines the qualifying MWh output of RECs by prorating the total output of the turbine generators in each hour by the proportion of steam produced by Class I eligible fuel inputs from the Hogged Fuel Boiler #1 relative to the total steam produced by other fuels (in the Hogged Fuel Boiler #1) and other boilers that feed the turbine generators

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6 Sappi has not sought certification under the alternative technology sub-prong of the refurbishment category.

7 Verso Androscoggin, LLC Request for Certification for RPS Eligibility, Docket No. 2012-301, Order Granting New Renewable Resource Certification at 8-9 (Dec. 19, 2012) (finding that a recovery boiler that was installed in 1965 and refurbished in 1986 and 2008 was operating beyond its previous useful life); S.D. Warren Company d/b/a Sappi Fine Paper North America Request for Certification for RPS Eligibility, Docket No. 2012-488, Order Granting New Renewable Resource Certification at 8 (Sep. 5, 2013) (finding that a thirty-six year old recovery boiler was operating beyond its previous useful life); Catalyst Paper Operations, Inc., Request for Certification for RPS Eligibility, Docket No. 2016-00077, Order Granting New Renewable Resource Certification, at 6 (finding that a twenty-six year old biomass cogeneration facility was operating beyond its previous useful life).
(regardless of fuel type). 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.

For the reasons stated above, and in accordance with the proportional REC calculation method detailed in Sappi’s Petition and outlined above, the renewable electrical generation derived from the output of Sappi Somerset Mill Hogged Fuel Boiler 1 is certified as a Class I new renewable resource eligible to satisfy Maine’s new renewable resource portfolio requirement pursuant to Chapter 311, § 3(B) of the Commission rules.

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 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. To the extent that any of the electricity from the Sappi Somerset Facility serves Facility load (i.e., behind-the-meter generation), Sappi 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 facility. See Lincoln Paper and Tissue, LLC, Request for Certification for RPS Eligibility, Docket No. 2008-173, Order Granting New Renewable Resource Certification at 8 (January 27, 2009). Sappi shall submit to the Commission an annual report by July 1st of each year that demonstrates compliance with this requirement.

Accordingly, the Commission

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10 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).
ORDERS

1. That the electrical generation of the Sappi Facility derived from the renewable output of the Hogged Fuel Boiler #1 System is certified as a Maine Class I New Renewable Resource.

2. That Sappi shall use the proportional method to calculate qualifying RECs consistent with this Order and Sappi’s Petition;

3. That Sappi, 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 Sappi Somerset Mill Facility. This report should include how the steam and electrical generation metering equipment associated with the Sappi Somerset Facility related to Hogged Fuel Boiler #1 and the turbine generators 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 fuel oil combusted in the Hogged Fuel Boiler #1 have been established and verified;

4. That Sappi shall submit to the Commission an annual report by October 1st of each year that demonstrates compliance with the requirement that Sappi 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 Sappi Somerset Mill Facility; and

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

Dated at Hallowell, Maine this 27th day of April, 2017.

BY ORDER OF THE COMMISSION

/s/Harry Lanphear

Harry Lanphear
Administrative Director

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.