STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2018-00293

October 22, 2018

BLUE SKY WEST, LLC
ORDER GRANTING NEW
Request for Approval of RENEWABLE RESOURCE
Certification for RPS Eligibility CERTIFICATION

VANNOY, Chairman; WILLIAMSON and DAVIS, Commissioners

I. SUMMARY

Blue Sky West, LLC (Blue Sky West) filed a petition on October 1, 2018, requesting certification of the 184.8 MW Bingham Wind facility located in Mayfield Township, Maine (the “Facility”) as a Class I 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. For the reasons set forth below, the petition is granted.

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(3A)). 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 started at one percent in 2008 and increased in annual one percent increments to ten percent in 2017.

As required by the Act, the Commission modified its portfolio requirement rule (Chapter 311) to implement the “new” renewable resource requirement. Maine Public Utilities Commission, Amendments to Portfolio Requirement Rule (Chapter 311), Docket No. 2007-00391, Order Adopting Rule and Statement of Factual and Policy Basis (Oct. 22, 2018). 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” 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.

Additionally, 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 the 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 a 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, 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. The rule contains the information that must be included in a petition for certification and specifies that the Commission shall

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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.
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 circumstances that renders the generation facility ineligible as a new renewable resource.

B. Petition for Certification

In its October 1, 2018 petition, Blue Sky West requested that the Facility be certified as a Class I new renewable resource. According to the petition, the 184.8 MW Facility is a wind power installation which began commercial operation on December 13, 2016.

On October 19, 2018, Blue Sky West made a supplemental filing, confirming that it was seeking renewable certification under vintage category Section (3)(B)(3)(a) in Chapter 311: a facility with an in-service date after September 1, 2005. Construction of the facility was completed in December 2016.

III. DECISION

The Commission has delegated to the Director of the Electric and Gas Utility Industries the authority to certify generation facilities as Class I new renewable resources pursuant to Chapter 311, § 3(B) of the Commission’s rules. Commission Initiated Delegation of Authority to Certify Class I New Renewable Resources, Docket No. 2008-00184, Delegation Order (April 23, 2008). Based on the information provided by Blue Sky West, I conclude that the Facility satisfies the resource type and vintage requirements of the rule. The Facility is fueled solely by wind, was completed in 2016, and commenced commercial operations after September 1, 2005.

Accordingly, the Bingham Wind Facility is hereby 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)(3)(a) of the Commission’s rules. Blue Sky West or the Facility’s successive owner or operator, shall provide timely notice to the Commission of any material change in the characteristics or operation of the Facility from that described in the petition filed in this proceeding.

To the extent the output of the Facility is serving load behind the meter, Blue Sky West must retain GIS certificates or otherwise obtain GIS certificates necessary to satisfy Maine’s RPS (both the original 30% (Maine Class II) and the “new” requirement (Maine Class I)) for that portion of the behind-the-meter 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 (Jan. 27, 2009). Blue Sky West shall submit to the Commission an annual report by September 1st of each year that demonstrates compliance with this requirement.
Dated at Hallowell, Maine, this 22nd day of October, 2018.

BY ORDER OF THE DIRECTOR OF THE ELECTRIC AND GAS
UTILITY INDUSTRIES

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Faith Huntington

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Faith Huntington
NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S. § 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 11(D) 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. § 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. § 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.