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February 4, 2020

Jeffrey R. Gaudiosi, Esq.  
Executive Secretary  
Public Utilities Regulatory Authority  
10 Franklin Square  
New Britain, CT 06051

**Re: Docket No. 19-10-26: Regulations for Renewable Portfolio Standards**

Dear Mr. Gaudiosi:

Enclosed please find the Comments of Retail Energy Supply Association re Second Request for Comments in connection the above-referenced proceeding.

I certify that a copy hereof has been sent to all participants of record as reflected on the Public Utilities Regulatory Authority's ("Authority") service list as of this date. A copy has also been filed with the Authority as an electronic web filing and is complete.

Please feel free to contact me if you have any questions or require additional information. Thank you.

Sincerely,

  
Joey Lee Miranda

Enclosure

Copy to: Service List

**STATE OF CONNECTICUT**

**PUBLIC UTILITIES REGULATORY AUTHORITY**

REGULATIONS FOR RENEWABLE : DOCKET NO. 19-10-26  
PORTFOLIO STANDARDS :  
: FEBRUARY 4, 2020

**COMMENTS OF RETAIL ENERGY SUPPLY ASSOCIATION  
RE SECOND REQUEST FOR COMMENTS**

The Retail Energy Supply Association (“RESA”)<sup>1</sup> hereby submits its comments in response to the Public Utilities Regulatory Authority’s (“Authority”) January 21, 2020 Second Notice of Request for Written Comments in the above-captioned proceeding.<sup>2</sup>

**BACKGROUND**

Pursuant to law and existing regulations, each electric distribution company (“EDC”) and each electric supplier is required to provide specific minimum percentages of electricity supply from renewable energy generation sources.<sup>3</sup> Compliance must be demonstrated annually by October 15 of the following year.<sup>4</sup>

On November 18, 2019, the Authority issued a Notice of Request for Written Comments in the above-captioned proceeding and presented a proposal for amendments to the current renewable portfolio standards (“RPS”) regulations (“Proposal”).<sup>5</sup> The central feature of the Proposal was a proposed requirement that electric suppliers settle a specified percentage of their

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<sup>1</sup> The comments expressed in this filing represent the position of the Retail Energy Supply Association (RESA) as an organization but may not represent the views of any particular member of the Association. Founded in 1990, RESA is a broad and diverse group of retail energy suppliers dedicated to promoting efficient, sustainable and customer-oriented competitive retail energy markets. RESA members operate throughout the United States delivering value-added electricity and natural gas service at retail to residential, commercial and industrial energy customers. More information on RESA can be found at [www.resausa.org](http://www.resausa.org).

<sup>2</sup> Second Notice of Request for Written Comments (Jan. 21, 2020) (“Second Notice”).

<sup>3</sup> See Conn. Gen. Stat. §§ 16-245a, 16-243q; Conn. Agencies Regs. § 16-245a-1(a).

<sup>4</sup> See Conn. Agencies Regs § 16-245a-1(a).

<sup>5</sup> Notice of Request for Written Comments (Nov. 18, 2019) (“First Notice”).

quarterly RPS compliance obligation in the trading period associated with the months in which the load was served.<sup>6</sup> The First Notice outlined the Proposal in a proposed revision of Regulations of Connecticut State Agencies section 16-245a-1 (“Proposed Regulations” or “Proposed Conn. Agencies Regs.”).<sup>7</sup> In response to the First Notice, various participants, including RESA, submitted comments.<sup>8</sup>

On January 21, 2020, the Authority issued the Second Notice requesting that RESA comment on two specific items and that all participants comment on a third item.<sup>9</sup> RESA hereby submits its comments in response to the Second Notice.

### COMMENTS

As RESA demonstrated in the RESA First Notice Comments and as discussed further below, a quarterly RPS compliance regime will add unnecessary complexity and cost to electric suppliers’ RPS compliance efforts.<sup>10</sup> Moreover, a quarterly RPS compliance regime could create constraints in the availability of RECs—constraints that could drive up REC prices for electric suppliers and EDCs alike.<sup>11</sup> In fact, these constraints could be so severe that it becomes necessary to comply by paying ACPs rather than buying RECs, if paying ACPs is even an available option.<sup>12</sup> Ultimately, customers will be responsible for the increased costs of RECs and

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<sup>6</sup> See First Notice, at 1.

<sup>7</sup> See *id.* at 2-4.

<sup>8</sup> See Choice Energy, LLC Written Comments (Dec. 16, 2019); Comments of the Office of Consumer Counsel (Dec. 16, 2019); Comments of Retail Energy Supply Association (Dec. 19, 2019) (“RESA First Notice Comments”); Joint Comments of Vistra Energy Corp. and Calpine Energy Solutions, LLC (Dec. 16, 2019); Written Comments of The Connecticut Light and Power Company dba Eversource Energy (Dec. 16, 2019); Written Comments of The United Illuminating Company (Dec. 16, 2019) (“UI First Notice Comments”).

<sup>9</sup> See Second Notice, at 1-2.

<sup>10</sup> See RESA First Notice Comments, at 3-11; see *infra* Sections I, III.

<sup>11</sup> See, e.g., RESA First Notice Comments, at 6-7; UI First Notice Comments, at 2-3.

<sup>12</sup> See RESA First Notice Comments, at 13 (observing that the Proposal “effectively eliminates the ability of an electric supplier or an EDC to rely on an ACP to meet its annual RPS obligations”).

RPS compliance efforts as these costs are incorporated into competitive supply products and Standard Service rates.

Fortunately, better, less onerous alternatives are available to reduce the risk and magnitude of instances of non-compliance with the RPS. For example, while a truly “real-time system”<sup>13</sup> of RPS compliance is not possible under the New England Power Pool Generation Information System’s (“NEPOOL GIS”) REC issuance and trading calendar,<sup>14</sup> moving the annual RPS compliance report filing deadline from October 15<sup>15</sup> to July 15<sup>16</sup> will allow compliance issues to be identified and addressed three months earlier than under the current paradigm. Similarly, increasing the amount of financial security that electric suppliers must maintain and making it available to ensure RPS compliance (as the Authority is contemplating in a separate docket)<sup>17</sup> will establish a meaningful guaranty of compliance. Finally, the alternative that RESA offers below<sup>18</sup> will enhance significantly efforts to ensure RPS compliance without unduly burdening participants in the market.

#### **I. APPROPRIATE REC BANKING MECHANISMS ARE NECESSARY TO CONTROL RPS COMPLIANCE COSTS**

In the Second Notice, the Authority specifically requested that RESA “[e]xplain how the rules surrounding banked RECs could be modified to achieve ongoing periodic RPS reporting during a compliance year.”<sup>19</sup> The Second Notice also requested comments on whether banking

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<sup>13</sup> See First Notice, at 1 (“[T]he Authority plans to transition to a more real-time system of allocating and settling [RECs].”).

<sup>14</sup> See, e.g., NEPOOL Generation Information System, <https://www.nepoolgis.com/> (outlining dates for the issuance of RECs and the close of applicable trading periods) (last visited Jan. 31, 2020).

<sup>15</sup> See Conn. Agencies Regs. § 16-245a-1(a)

<sup>16</sup> See Proposed Conn. Agencies Regs. § 16-245a-1(a).

<sup>17</sup> See Docket No. 19-10-41, *Regulations for Electric Supplier Licensing*, Notice of Request for Written Comments (Nov. 21, 2019).

<sup>18</sup> See *infra* Section IV.

<sup>19</sup> Second Notice, at 1 (Item 1).

RECs annually and quarterly and eliminating the thirty percent (30%) cap on the banking of RECs<sup>20</sup> would mitigate concerns about the distortion of REC prices under a quarterly RPS compliance regime.<sup>21</sup> As RESA noted in its initial comments,<sup>22</sup> REC banking is a critical feature of an RPS compliance regime because it allows load-serving entities to manage their compliance costs for the ultimate benefit of their customers. Accordingly, any changes that the Authority makes to its RPS regulations should expressly provide for appropriate REC banking mechanisms.

**A. REC Banking Will Mitigate REC Supply Constraints**

REC banking allows electric suppliers and EDCs, at times when REC prices are low, to purchase additional quantities of RECs (in addition to the quantities that they need for their current compliance obligations) and bank these RECs for future compliance when REC prices may be higher. Doing so enables suppliers and EDCs to control their compliance costs, which are ultimately included in the prices charged to customers.<sup>23</sup>

Under a quarterly RPS compliance paradigm, the possibility of using banked RECs for compliance is particularly important because it would allow electric suppliers to mitigate constraints associated with the production of RECs. Suppliers could acquire RECs when they are plentiful so that these RECs will be available for compliance during times when far fewer may be available. For example, the production of energy from certain renewable sources (such as solar and hydro) and associated RECs varies over the course of the year. Because of this, in the first calendar quarter, comparatively smaller quantities of energy (and associated RECs) are

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<sup>20</sup> See Conn. Agencies Regs. § 16-245a-1(e)(2)-(4).

<sup>21</sup> See Second Notice, at 2 (Item 3a).

<sup>22</sup> RESA First Notice Comments, at 16.

<sup>23</sup> See, e.g., Docket No. 16-03-01, *PURA Annual Review of the Rate Adjustment Mechanisms of the Connecticut Light and Power Company*, Decision (Oct. 26, 2016), at 2 (authorizing the recovery of RPS compliance costs through Standard Service rates).

produced from renewable sources. The opportunity to bank RECs in prior years or quarters would allow suppliers to use these banked RECs for compliance. Because the use of previously banked RECs for compliance would mitigate the overall demand for newly created RECs, it would moderate REC prices for the benefit of all Connecticut customers, including those served pursuant to Standard Service.<sup>24</sup>

Under a quarterly RPS compliance regime, REC banking also would mitigate constraints associated with the delivery of RECs. Fundamentally, electric suppliers do not acquire RECs as soon as the energy with which they are associated is generated. RECs must first be created, purchased, and then delivered. As a general matter, RECs are not created until *the second calendar quarter* after the associated energy was generated.<sup>25</sup> Further, once RECs are created, they cannot be transferred to suppliers immediately.<sup>26</sup> Moreover, suppliers do not control the delivery of RECs; rather, the entities that hold the RECs (whether generators or traders) control REC delivery. These entities may deliver RECs only according to set schedules. In fact, a common contracting practice is to deliver RECs just prior to the end of the particular compliance year rather than throughout the year. While it is conceptually possible that REC trading and delivery mechanisms and schedules could be modified, those changes would fundamentally alter the way in which the regional REC trading market operates.<sup>27</sup> In addition, implementing these

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<sup>24</sup> See, e.g., Docket No. 16-03-01, *PURA Annual Review of the Rate Adjustment Mechanisms of the Connecticut Light and Power Company*, Decision (Oct. 26, 2016), at 2 (authorizing the recovery of RPS compliance costs through Standard Service rates).

<sup>25</sup> See New England Power Pool Generation Information System Operating Rules (effective Jan. 1, 2020) (“NEPOOL GIS Rules”), Rule 2.1(b) (“Certificates will be created quarterly on the 15th day of the calendar quarter . . . that is the second calendar quarter following the calendar quarter in which the Energy associated with a Certificate was generated . . .”).

<sup>26</sup> See, e.g., NEPOOL Generation Information System, <https://www.nepoolgis.com/> (outlining dates for the issuance of RECs and the close of applicable trading periods) (last visited Jan. 31, 2020).

<sup>27</sup> See *id.* (“The **New England Power Pool Generation Information System** (NEPOOL GIS) issues and tracks certificates for all MWh of generation and load produced in the ISO New England control area, as well as imported MWh from adjacent control areas.”) (emphasis in original) (last visited Jan. 31, 2020).

changes (if it is even possible to do so) would likely impose transaction costs<sup>28</sup> that, ultimately, would be incorporated into the prices that customers pay for retail electricity products. Because of the constraints associated with the availability and delivery of RECs, suppliers might not, in every instance, be able to arrange for adequate RECs to be delivered in time to meet their quarterly compliance obligations. In such circumstances, the availability of a banking mechanism will be particularly important to enable suppliers to meet their obligations.

The Proposal contemplated the use of RECs purchased in one quarter for compliance with a subsequent quarter's compliance obligation.<sup>29</sup> However, as RESA noted in its earlier comments,<sup>30</sup> the Proposed Regulations did not contain language expressly permitting the use of banked RECs to satisfy quarterly obligations.<sup>31</sup> In order to clarify that suppliers can rely on banked RECs to satisfy their quarterly compliance obligations, RESA recommends that the Authority revise the Proposed Regulations to read:

An electric distribution company or electric supplier may bank Class I, Class II and Class III renewable energy certificates generated in one quarter or year to comply with the quarterly or annual renewable energy portfolio requirements in either of the two following years, provided the electric distribution company or electric supplier has complied with the renewable energy portfolio requirements ~~each in the prior~~ year by means of renewable energy certificates. In addition, the electric distribution company or electric supplier shall demonstrate to the satisfaction of the Public Utilities Regulatory Authority that:

- 1) The banked renewable energy certificates were in excess of the renewable energy certificates needed for compliance in the quarter or year they were generated, and the excess renewable energy certificates have not previously been used for compliance with section 16-245a(a) or section 16-243q(a) of the Connecticut General Statutes . . . .<sup>32</sup>

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<sup>28</sup> See, e.g., Exchange and Clearing Transaction Fee Schedule for Nodal Exchange Options (available at: <https://www.nodalexchange.com/wp-content/uploads/Transaction-Fee-Schedule-Environmental-Options.pdf>) (identifying certain costs associated with certain REC transactions) (last visited Jan. 31, 2020).

<sup>29</sup> See First Notice, at 1.

<sup>30</sup> RESA First Notice Comments, at 16.

<sup>31</sup> See Proposed Conn. Agencies Regs. § 16-245a-1(f).

<sup>32</sup> Proposed revisions to Proposed Conn. Agencies Regs. § 16-245a-1(f). Proposed additions shown by double underline; proposed deletions shown by ~~strikethrough~~.

**B. Eliminating The Thirty Percent Cap On REC Banking Will Alleviate But Not Eliminate REC Price Impacts**

Currently, electric suppliers and EDCs are not permitted to bank RECs in excess of thirty percent (30%) of the number needed to meet their annual RPS obligations for each particular class of RECs (the “30% Cap”).<sup>33</sup> Removing this cap would provide some relief from price increases resulting from constraints on REC availability during any given period. However, the removal of the 30% Cap will not provide immediate or complete relief.

Fundamentally, removing the 30% Cap simply offers suppliers the opportunity to bank more RECs. It will not, for example, mean that suppliers automatically have more RECs to use for compliance. Instead, at the moment that the 30% Cap is removed, suppliers will have the same number of banked RECs as they had immediately before the removal of the cap. In order for the removal of the cap to be useful, suppliers will have to bank additional RECs (beyond the prior limits under the 30% Cap). Because suppliers will not be able to do so instantaneously, the benefits of removing the 30% Cap will take time to realize.

Moreover, suppliers’ ability and willingness to bank additional RECs will depend on both the availability and price of RECs. For example, if the supply of RECs is constrained in the first quarter and there is an insufficient number of RECs available in the market for suppliers to meet their RPS obligations, suppliers will not be able to bank additional RECs. In addition, suppliers are only likely to bank RECs if there is a reasonable prospect that they will be able to use those RECs for future RPS compliance. As the Authority is aware, supplier load varies over time based on customer usage and turnover.<sup>34</sup> Because banked RECs are considered “retired” under

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<sup>33</sup> See Conn. Agencies Regs. § 16-245a-1(e)(2)-(4).

<sup>34</sup> See 06-10-22, *PURA Monitoring the State of Competition in the Electric Industry*, EDCs’ Monthly Customer Migration Reports (showing the change in the number of customers and amount of load served by suppliers from month-to-month).



NEPOOL GIS rules,<sup>35</sup> they cannot be used for other purposes if a supplier does not have sufficient load against which to apply them over the next two years.<sup>36</sup> Consequently, if a supplier cannot reasonably predict its upcoming RPS compliance obligations or anticipates that its load obligations may drop significantly, it will not likely bank additional RECs (even if they are available) because the supplier's ability to use those banked RECs is uncertain. As a result, even with the removal of the 30% Cap, prudent suppliers will not bank RECs that are not likely to be used before they expire. Thus, the removal of the 30% Cap will not provide immediate or complete relief.

## **II. THE USE OF BILLING DETERMINANTS TO APPROXIMATE RPS COMPLIANCE OBLIGATIONS IS NOT NECESSARY**

In the Second Notice, the Authority requested that RESA discuss “an alternative process that relies on retail sales (aka billing determinants) as a proxy for on-going, real-time quarterly RPS compliance.”<sup>37</sup> Under this approach, retail sales would be used to estimate the RPS compliance obligation for the first three quarters of each compliance year, and a final determination of each electric supplier's RPS compliance obligation based on load settlement data could be established under current standards.<sup>38</sup> The Second Notice also requested that RESA discuss “alternatives to the current final load settlement reconciliation process and the timing of that process.”<sup>39</sup>

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<sup>35</sup> See NEPOOL GIS Rules, Rule 3.7(c) (“At the end of the fourth Trading Period for a calendar year (i.e., on June 15 of the subsequent calendar year), all Banked Certificates that have not been deposited into a Retail Subaccount . . . or associated with an export transaction or a Reserved Certificate transaction shall be retired in accordance with Rule 3.4(a) as if they had not been held in a Banked Certificate Subaccount.”).

<sup>36</sup> See Conn. Agencies Regs. § 16-245a-1(e) (“An electric distribution company or electric supplier may bank Class I, Class II and Class III renewable energy certificates generated in one year to comply with the renewable energy portfolio requirements *in either of the two following years* . . .”) (emphasis added).

<sup>37</sup> Second Notice, at 1 (Item 2a).

<sup>38</sup> *Id.*

<sup>39</sup> *Id.* at 2 (Item 2b).

Although the Authority is attempting to establish “a more real-time system”<sup>40</sup> of RPS compliance, a truly “real-time system” is not possible under the NEPOOL GIS REC creation and trading process.<sup>41</sup> RECs are not even created until *the second calendar quarter* after the associated energy was generated.<sup>42</sup> Further, a supplier’s ability to take delivery of RECs is only possible during the applicable trading periods, which begin after RECs for a particular quarter are created.<sup>43</sup> Consequently, under NEPOOL GIS’s current rules, there is an inherent lag between the time that load is served and when RECs can be created and traded. Because of this lag, however, it is also not necessary to rely on retail sales for determining RPS compliance obligations; instead, the Authority could rely on ISO New England, Inc. (“ISO-NE”) 90-Day Resettlement Data.

As RESA noted in its initial comments, if a supplier’s quarterly load obligation is determined based on the EDCs’ billing determinants, there may be discrepancies between the load data the EDCs report to ISO-NE and the supplier’s retail sales for any customer that generates more electricity than it uses in any hour.<sup>44</sup> These discrepancies could harm suppliers. For example, if an electric supplier settles an insufficient number of RECs to meet its compliance obligation for a particular quarter based on its retail sales, it could be assessed a penalty or

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<sup>40</sup> See First Notice, at 1 (“[T]he Authority plans to transition to a more real-time system of allocating and settling [RECs].”).

<sup>41</sup> See, e.g., NEPOOL Generation Information System, <https://www.nepoolgis.com/> (outlining dates for the issuance of RECs and the close of applicable trading periods) (last visited Jan. 31, 2020).

<sup>42</sup> See NEPOOL GIS Rules, Rule 2.1(b) (“Certificates will be created quarterly on the 15th day of the calendar quarter . . . that is the second calendar quarter following the calendar quarter in which the Energy associated with a Certificate was generated . . .”).

<sup>43</sup> See, e.g., NEPOOL Generation Information System, <https://www.nepoolgis.com/> (outlining dates for the issuance of RECs and the start of applicable trading periods) (last visited Jan. 31, 2020).

<sup>44</sup> See, e.g., 15-09-03, *PURA Investigation into Net Metering kWh Banking*, Interim Decision (Dec. 28, 2016), at 16 (finding that the EDCs “explained that most of the energy produced from smaller Class I renewable sources, such as residential solar arrays, is not accounted for through the ISO-NE settlement process”).

required to pay an ACP as a result.<sup>45</sup> Based on the final settlement data,<sup>46</sup> it could be subsequently determined that the electric supplier actually had settled a sufficient number of RECs, and, therefore, no penalty or ACP was actually warranted. Basic principles of fairness would require that such an unwarranted penalty or ACP be refunded to the supplier. Further, creating and administering a system that requires reconciliation of billing determinant data and final load settlement data and the issuance of associated refunds will impose burdens on those responsible for performing these reconciliations, issuing and accounting for refunds, and otherwise administering this system.

Conversely, if the Authority uses the ISO-NE 90-Day Resettlement Data for determining both quarterly and annual RPS compliance obligations, it can avoid this issue. These data are relied upon by other states in the region<sup>47</sup> and will be known by the start of the quarterly REC trading periods.<sup>48</sup> As a result, if the ISO-NE 90-Day Resettlement Data are used, suppliers will be able to know precisely how many RECs they need for both quarterly and annual compliance. Consequently, suppliers will not be subject to penalties or ACPs for inadvertently failing to comply with quarterly obligations that are subject to uncertainty because of the inherent

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<sup>45</sup> See Proposed Conn. Agencies Regs. § 16-245a-1(e).

<sup>46</sup> Currently, for purposes of the annual RPS compliance filing, the Authority relies on the Post-90 Day Settlement Data reported by the EDCs to determine supplier load obligations. See Docket No. 19-06-01, *Annual Review of Connecticut Electric Suppliers' and Electric Distribution Companies' Compliance with Connecticut's Renewable Energy Portfolio Standards in the Year 2018*, Notice of Proceeding (Sep. 23, 2019), at 1 (“[T]he Authority will use the Final Settlement Load (Post-90-Day) to determine a company’s total load and obligations . . .”).

<sup>47</sup> See, e.g., *Guideline for Retail Electricity Suppliers on the Determination of Sales to End-Use Customers for Calculating their Annual RPS & APS Obligations* (May 24, 2012) (available at: <http://www.mass.gov/eea/docs/doer/rps-aps/rps-compliance-basis-guideline.pdf>) (last visited Feb. 3, 2020), at 1. In fact, the Authority is contemplating using 90-Day Resettlement Data for annual RPS compliance going forward. See Docket No. 19-10-40, *Declaratory Ruling Regarding Renewable Portfolio Standards Fifth Quarter*, Proposed Final Decision (Jan. 10, 2020), at 4 (“Concurrent with the elimination of the fifth quarter for meeting RPS obligations accrued on or after January 1, 2020, the Authority hereby changes its practice to use the 90-Day Resettlement figures in determining a load-serving entity’s ‘total output or services’ for RPS compliance purposes rather than the Post-90-Day figures.”).

<sup>48</sup> See, e.g., NEPOOL Generation Information System, <https://www.nepoolgis.com/> (outlining dates for the issuance of RECs and the start of applicable trading periods) (last visited Jan. 31, 2020).

discrepancy in the use of retail sales data for quarterly compliance and Post-90 Day Settlement Data for annual compliance. Further, since the Proposed Regulations would move the RPS compliance deadline from October 15 to July 15,<sup>49</sup> the most reliable year-end data available at that time will be the ISO-NE 90-Day Resettlement Data.<sup>50</sup>

### **III. A TIERED-CUMULATIVE QUARTERLY COMPLIANCE APPROACH WILL NOT MEANINGFULLY REDUCE REC PRICE DISTORTIONS**

In the Second Notice, the Authority asked whether “tiered, cumulative quarterly compliance (e.g., Q1-25% of estimated load, Q2-50% of cumulative (Q1+Q2), estimated load, Q3-75% of cumulative (Q1+Q2+Q3), estimated load, and, Q4-100% of total resettled load)” would alleviate price distortion concerns.<sup>51</sup> Even though this tiered approach would require smaller quantities of RECs to be settled in the first and second quarters, because suppliers would be required to settle a percentage of their quarterly RPS compliance obligation in the trading period associated with the months in which the load was served, it does not differ materially from the Proposal.<sup>52</sup> Under either approach, suppliers would be required to settle significant volumes of RECs each quarter. In fact, the proposed tiered approach would actually require more RECs to be settled during the third quarter than the original Proposal would.<sup>53</sup>

As RESA noted in its initial comments, currently, electric suppliers are not required to purchase and retire RECs at any set time during the year so long as they have purchased and retired sufficient RECs to satisfy their obligations before the last day of the trading period of any

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<sup>49</sup> See Proposed Conn. Agencies Regs. § 16-245a-1(a).

<sup>50</sup> See ISO-NE 2020 Metering and Resettlement Deadlines Calendar (available at: [https://www.iso-ne.com/static-assets/documents/2019/12/mtr\\_restle\\_deadlines\\_2020.pdf](https://www.iso-ne.com/static-assets/documents/2019/12/mtr_restle_deadlines_2020.pdf)) (last visited Feb. 3, 2020).

<sup>51</sup> Second Notice, at 2.

<sup>52</sup> See First Notice, at 1.

<sup>53</sup> Compare Proposal with Second Notice, at 2.

given year.<sup>54</sup> As a result, those selling RECs are not guaranteed any specific level of demand at any point during the year. Consequently, those selling RECs must maintain competitive pricing levels throughout the entire annual trading period. Conversely, *any* quarterly compliance obligation would create specific levels of demand for RECs in the first three quarters, while sellers will retain their ability to sell RECs generated in each of the four quarters at any time during the year. This potential change would increase the market power of REC sellers and, consequently, create a risk for increased REC prices. These price increases could be particularly acute if, because of operational issues, there is a limited supply of RECs available at any of those times. Ultimately, customers will bear these added costs as they are incorporated into Standard Service rates<sup>55</sup> and retail supply prices.

Further, like the original Proposal, a tiered approach would also disrupt existing REC procurement strategies and frustrate compliance efforts that electric suppliers may have undertaken already. As RESA remarked in its original comments,<sup>56</sup> as part of their compliance efforts, some electric suppliers enter into contracts for RECs well in advance of the compliance deadlines. In fact, some of these contracts are long-term contracts that provide for the delivery of RECs in multiple future compliance years. These contracts, however, have been designed to provide for compliance under the current annual compliance schedule, with RECs generally delivered only at the end of the trading period for the entire compliance year. If a tiered quarterly approach is adopted, electric suppliers that worked proactively to meet their compliance obligations and contracted to procure a sufficient supply of RECs by the annual compliance date

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<sup>54</sup> RESA First Notice Comments, at 6-7.

<sup>55</sup> See, e.g., Docket No. 16-03-01, *PURA Annual Review of the Rate Adjustment Mechanisms of the Connecticut Light and Power Company*, Decision (Oct. 26, 2016), at 2 (authorizing the recovery of RPS compliance costs through Standard Service rates).

<sup>56</sup> RESA First Notice Comments, at 7-8.

would be required to contract for additional RECs (or to negotiate changes to their REC supply contracts) to meet their quarterly compliance obligations. Doing so, however, could impose additional costs on these electric suppliers. These costs ultimately would be borne by ratepayers as they are incorporated into retail supply prices (potentially through change-in-law provisions). As a consequence, electric suppliers engaged in behavior intended to ensure their compliance will be placed at a competitive disadvantage vis-à-vis suppliers who have not undertaken such proactive efforts; thereby, punishing the very behavior the Authority should be seeking to encourage.

Moreover, similar to the original Proposal, a tiered quarterly compliance obligation would have broad implications for the REC market – a market that is generally run on a regional basis.<sup>57</sup> As RESA pointed out in its original comments,<sup>58</sup> currently, many RECs are not delivered until June of the year following the compliance year. While the REC trading and delivery mechanisms and schedules may be able to be modified to accommodate a quarterly compliance obligation, those changes would fundamentally alter the way in which the REC trading market operates – a market that it is not limited to Connecticut. Further, implementing these changes would likely impose transaction costs<sup>59</sup> that, ultimately, would be incorporated into the prices that customers pay for retail electricity products. Thus, the Authority should not establish a

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<sup>57</sup> See NEPOOL Generation Information System (<https://www.nepoolgis.com/>) (“The **New England Power Pool Generation Information System** (NEPOOL GIS) issues and tracks certificates for all MWh of generation and load produced in the ISO New England control area, as well as imported MWh from adjacent control areas.”) (emphasis in original) (last visited Jan. 31, 2020).

<sup>58</sup> RESA First Notice Comments, at 8.

<sup>59</sup> See, e.g., Exchange and Clearing Transaction Fee Schedule for Nodal Exchange Options (available at: <https://www.nodalexchange.com/wp-content/uploads/Transaction-Fee-Schedule-Environmental-Options.pdf>) (identifying certain costs associated with certain REC transactions) (last visited Jan. 31, 2020).

quarterly RPS obligation applicable to all suppliers to address an issue unique to just a couple of suppliers.<sup>60</sup>

#### **IV. RESA'S ALTERNATIVE WILL ENHANCE EFFORTS TO IMPROVE RPS COMPLIANCE WITHOUT UNDULY BURDENING SUPPLIERS**

In the Second Notice, the Authority also inquired about other methods of implementing a quarterly reporting scheme that would alleviate price distortion concerns.<sup>61</sup> In addition to changing the RPS compliance deadline to July 15<sup>62</sup> and increasing electric suppliers' financial security requirements (both of which RESA supports),<sup>63</sup> an appropriate alternative compliance mechanism would focus on the suppliers most at risk of non-compliance. Further, it would do so in a way that does not impose substantial added costs or burdens on customers served by suppliers that continuously meet their obligations. Accordingly, RESA offers the following as a potential alternative (the "RESA Alternative"):

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<sup>60</sup> See e.g., Docket No. 17-06-23, *Annual Review of Connecticut Electric Suppliers' and Electric Distribution Companies' Compliance with Connecticut's Renewable Energy Portfolio Standards in the Year 2016*, Decision (Jan 23, 2019) ("2016 RPS Compliance Decision"), at 41 ("In 2016, 46 electric suppliers and Connecticut's 2 electric distribution companies were subject to the CT RPS requirements. Of the 48 companies, 32 fully complied with the RPS requirements by procuring and properly settling all of its required renewable energy certificates."). The remaining entities were obligated to make ACPs. See 2016 RPS Compliance Decision, at 41. The Authority issued three notices of violation for failure to submit ACPs timely. See Docket 17-06-23, *Annual Review of Connecticut Electric Suppliers' and Electric Distribution Companies' Compliance with Connecticut's Renewable Energy Portfolio Standards in the Year 2016*, Notice of Violation and Assessment of Civil Penalty in the Amount Set Forth in the Schedule Below (Mar. 20, 2019) (issued to AmericaWide for failure to file proof that submitted ACP); Docket 17-06-23, *Annual Review of Connecticut Electric Suppliers' and Electric Distribution Companies' Compliance with Connecticut's Renewable Energy Portfolio Standards in the Year 2016*, Notice of Violation and Assessment of Civil Penalty in the Amount Set Forth in the Schedule Below (Mar. 20, 2019) (issued to Abest for failure to file proof that submitted ACP); Docket 17-06-23, *Annual Review of Connecticut Electric Suppliers' and Electric Distribution Companies' Compliance with Connecticut's Renewable Energy Portfolio Standards in the Year 2016*, Notice of Violation and Assessment of Civil Penalty in the Amount Set Forth in the Schedule Below (Mar. 20, 2019) (issued to EDF Energy for failure to file proof that submitted ACP). However, EDF Energy subsequently filed proof that it had submitted the required ACP. Docket 17-06-23, *Annual Review of Connecticut Electric Suppliers' and Electric Distribution Companies' Compliance with Connecticut's Renewable Energy Portfolio Standards in the Year 2016*, EDF Energy Services, LLC Compliance Filing (Jun. 6, 2019).

<sup>61</sup> Second Notice, at 2.

<sup>62</sup> See Proposed Conn. Agencies Regs. § 16-245a-1(a).

<sup>63</sup> See Docket No. 19-10-41, *Regulations for Electric Supplier Licensing*, Notice of Request for Written Comments (Nov. 21, 2019) (proposing increasing the financial security requirement up to a maximum of \$2 million and allowing its use for failure to comply with RPS).

- Quarterly reporting should not be generally required for all suppliers. If a supplier has met its obligations for five (5) consecutive years (including by paying ACPs), it should not be subject to a quarterly reporting requirement.
- Any supplier that has not met its obligations for five (5) consecutive years (i.e., a supplier that has not operated in Connecticut for five (5) consecutive years or that has failed to meet its obligation in one of the preceding five (5) years) should be required to submit, on a quarterly basis (in each of the first three quarters), a quarterly report, including an affidavit identifying the supplier's projected sales and describing how the supplier intends to comply with its obligations. Such quarterly reporting obligation would continue until the supplier demonstrated compliance with its RPS obligations for five (5) consecutive years.
- If any quarterly report shows the potential for non-compliance, the supplier should be required to demonstrate that it has purchased RECs sufficient to meet ten percent (10%) of its projected annual obligation or to provide financial security in an amount equal to ten percent (10%) of the amount of the ACP needed to satisfy its projected annual obligation.
- In lieu of providing a quarterly report, any supplier subject to the quarterly reporting requirement, should be permitted to demonstrate that it has purchased RECs sufficient to meet ten percent (10%) of its projected annual obligation or to provide financial security in an amount equal to ten percent (10%) of the amount of the ACP needed to satisfy its projected annual obligation.
- If any year-end or annual compliance report shows that a supplier did not comply with its annual obligations, the supplier should be required to demonstrate, in the first quarter of the next year, that it has settled RECs sufficient to satisfy ten percent (10%) of its projected annual obligation for the following year or to provide financial security in an amount equal to ten percent (10%) of the amount of the ACP needed to satisfy its projected annual obligation for that following year. If the supplier is able to do so, it should then be subject to the quarterly reporting requirement for the remainder of the year and such quarterly reporting obligation would continue until the supplier demonstrated compliance with its RPS obligations for five (5) consecutive years.

This alternative will ensure that suppliers that have a substantiated record of complying with the RPS are not subject to undue burdens and their customers are not subject to unnecessary costs. The RESA Alternative will also ensure that the Authority receives timely information about potential non-compliance and that action to mitigate potential non-compliance is taken. Further, adopting this alternative would obviate any potential price distortions in the REC market



that would result from imposing a quarterly obligation on all suppliers; thereby, mitigating the disruption to the regional REC market and enhancing the ability of electric suppliers to execute REC procurement strategies designed to limit cost.

### CONCLUSION

For all the foregoing reasons and those set forth in RESA's initial comments, the Authority should forgo adopting a quarterly RPS compliance obligation applicable to all suppliers and instead develop draft regulations that move the annual RPS compliance deadline to July 15 and adopt the RESA Alternative.

Respectfully submitted,  
RETAIL ENERGY SUPPLY ASSOCIATION

By 

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**CERTIFICATION**

I hereby certify that a copy of the foregoing was sent to all participants of record on this  
4th day of February 2020.

  
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Joey Lee Miranda