

**STATE OF NEW HAMPSHIRE**  
**BEFORE THE SITE EVALUATION COMMITTEE**

**Docket No. SEC \_\_\_\_\_**

**Joint Motion of Laidlaw Berlin BioPower, LLC and Berlin Station, LLC for Transfer and  
Amendment of the Certificate of Site and Facility, and Notice of Change in Major  
Contractor**

**TESTIMONY OF KEITH MUELLER ON BEHALF OF LAIDLAW BERLIN  
BIOPOWER, LLC AND BERLIN STATION, LLC**

1           **Q.     Please state your name, title and business address for the record.**

2           **A.**     My name is Keith Mueller. I am presently the Chief Operating Officer of Cate  
3 Street Capital, Inc. My business address is One Cate Street, Portsmouth, New Hampshire,  
4 03801.

5           **Q.     Would you briefly summarize your employment experience and educational**  
6 **background.**

7           **A.**     I recently retired as a managing director from Accenture after 27 years.  
8 Accenture is a global management consulting, technology services and outsourcing company.  
9 With approximately 211,000 people serving clients in more than 120 countries, the company  
10 generated net revenues of US\$21.6 billion for the fiscal year ended Aug. 31, 2010. I held  
11 numerous executive roles at Accenture including leading the North America Utility organization  
12 with over 500 consultants, leading the firm’s Global Utility industry with responsibility for  
13 managing the industries go-to-market strategy and coordinating over 2,000 individuals. I also  
14 managed the P&L for the Resources Industry (energy, utility and natural resources industries) for  
15 North America, was responsible for defining the Accenture sales efforts and for defining the  
16 strategy and the development of Accenture’s Business Process Outsourcing Industry solutions. I  
17 sat on the firm’s executive committee and was also responsible for compensation and hiring for  
18 the United States with over 10,000 hires per year. I hold a B.S. in finance and economics from  
19 Illinois State.

20           I recently became Chief Operating Officer of Cate Street Capital, Inc. (“Cate Street”).  
21 Cate Street is an environmentally sustainable project development management company with  
22 headquarters in Portsmouth, NH. I become involved with the management of Cate Street, after  
23 being an investor in various Cate Street managed projects.

1           As the SEC is aware from Committee Exhibit 1 at the initial hearing, I am one of the  
2 owners of NewCo Energy, LLC. NewCo Energy is a project company managed by Cate Street.  
3 I am also personally an investor in the project. Furthermore, I am presently one of three  
4 members of the LBB Management Board, the entity to which LBB officers report. That same  
5 management Board will work with Berlin Station and Burgess, and I will continue to play the  
6 same role.

7           **Q.     What is the purpose of your testimony?**

8           **A.**     I am appearing before the Site Evaluation Committee in support of the Joint  
9 Motion to Transfer and Amend the Certificate of Site and Facility, and Notice of Change in  
10 Major Contractor. I will speak on behalf of Laidlaw Berlin Biopower, LLC (“LBB”), the  
11 current Certificate holder, and Berlin Station, LLC (“Berlin Station”), the proposed Certificate  
12 holder. While Berlin Station is a new corporate entity, its ultimate ownership, its attributes and  
13 its management are all similar or identical to LBB. It is being formed, as I will explain below, to  
14 facilitate the financing of the project.

15           I will testify generally about the corporate reorganization and the financial capabilities of  
16 Berlin Station, LLC.

17           **Q.     Would you briefly describe the purpose of the corporate restructuring.**

18           **A.**     The Project expects to obtain financing from the private placement market as well  
19 as from New Market Tax Credit (NMTC) lenders. The corporate structure is being revised to  
20 accommodate both sets of lenders.

21           The new entities that are being created are referred to as Single Purpose Entities (“SPE”).  
22 The creation of new SPEs is a common practice in limited-recourse financing transactions like

1 this one and helps to facilitate the financing by allowing the rating agencies and lenders to focus  
2 exclusively on the economic features of the Project.

3 In addition, some of the corporate restructuring is also driven by tax requirements  
4 associated with the NMTC lenders. I will describe that aspect in greater depth shortly.

5 **Q. Would you briefly describe the corporate restructuring.**

6 **A.** We have provided a chart of the new structure which is attached to the Motion as  
7 Exhibit 5. I think that exhibit most effectively explains the basic framework of the new  
8 structure. We have also described the details of the new structure in the Motion. I will not  
9 recount that all again here but there are three important features of the structure that I would like  
10 to call to the attention of the SEC.

11 First, Berlin Station will essentially be a combination of LBB and PJPD Holdings, LLC  
12 (“PJPD”). As the SEC may recall, PJPD owned the land and facility, and leased it to LBB. LBB  
13 held the Certificate and the major contracts. Under this new structure, Berlin Station will own  
14 the facility, the real property, be the party to all the contracts (Power Purchase Agreement, Fuel  
15 Supply Agreement, EPC Contract, O&M Contract, etc.) and, pending SEC approval, the  
16 Certificate holder. We think consolidating all of that control into a single entity, rather than  
17 having it reside in two entities, strengthens and simplifies the Project.

18 Second, NMTC rules prohibit Berlin Station from directly operating the Project.  
19 Specifically, some of the NMTC participants need their borrower - Berlin Station - to be a "real  
20 estate entity" under the NMTC rules. For this purpose a real estate entity is one whose primary  
21 purpose is the development and rental of real estate, as opposed to the operation of a business.  
22 So we needed Berlin Station, as the NMTC borrower, to be a lessor of the project rather than an  
23 operator, and we needed a separate entity as tenant to be the operator. If we didn't have this

1 structure, half of the NMTC allocation would have to drop out. Therefore, Berlin Station will  
2 lease the facility to Burgess BioPower, LLC (Burgess). Berlin Station will also enter into a  
3 “Right of Use Agreement” with Burgess pursuant to which Burgess shall have the right to use  
4 the contracts required to operate the Project (PPA, fuel supply, EPC, O&M, etc). Burgess will  
5 administer the Certificate and the contracts, and function as the facility manager on behalf of  
6 Berlin Station and under Berlin Stations oversight.

7 Third, NewCo Energy, LLC, the primary owner of the Project as initially presented to the  
8 SEC, will remain at the top of the new corporate structure.

9 **Q. The Certificate currently binds LBB, PJPD, Newco and Aware Funding,**  
10 **LLC. Which entities are you proposing to be bound under this new corporate structure?**

11 **A.** We are proposing that Berlin Station, Burgess and NewCo be bound. As I  
12 indicated, Berlin Station is essentially a combination of LBB and PJPD. NewCo would agree to  
13 continue to be bound. Aware Funding will cease to exist and have no parallel entity in the new  
14 structure.

15 **Q. Why are you asking the SEC for approval of this transaction?**

16 **A.** When the SEC issued the Certificate to LBB, it included a condition stating that  
17 “this Certificate is not transferable to any person or entity without the prior written approval of  
18 the Subcommittee.” Although Berlin Station is a new corporate entity, it has many of the same  
19 features and capabilities of the entities the SEC already reviewed. Nevertheless, since we are  
20 proposing that Certificate be transferred from LBB to Berlin Station, we are requesting approval  
21 in accordance with the Certificate.

22 **Q. Would you briefly describe the financial capabilities of Berlin Station.**

1           **A.**     As I noted, Berlin Station will essentially be a combination of PJPD and LBB.  
2     Therefore, practically speaking, it will really have the combined financial strength of those two  
3     entities.

4           Moreover, since the Project was first reviewed by the SEC, we have made substantial  
5     progress toward securing all necessary funding to proceed. We are confident that if the SEC acts  
6     favorably on this request, and the Public Utilities Commission approves the proposed Power  
7     Purchase Agreement, we expect financing would close shortly thereafter. Berlin Station will be  
8     the borrower and recipient of all construction funding.

9           **Q.**     **Does this conclude your pre-filed testimony?**

10          **A.**     Yes, but I would be happy to answer any questions.