

STATE OF NEW HAMPSHIRE
BEFORE THE
SITE EVALUATION COMMITTEE

APPLICATION OF LAIDLAW BERLIN BIOPOWER, LLC FOR A CERTIFICATE OF SITE
AND FACILITY

DOCKET NO. SEC _____

**MOTION FOR PROTECTIVE ORDER AND CONFIDENTIAL TREATMENT FOR
ISO-NEW ENGLAND INTERCONNECTION REQUEST**

Applicant Laidlaw Berlin BioPower, LLC (“Laidlaw”), respectfully submits this Motion For Protective Order and Confidential Treatment for ISO-New England Interconnection Request, and states as follows:

1. Laidlaw seeks confidential treatment pursuant to RSA 91-A for the ISO-NE Interconnection Request attached hereto as Exhibit A. The Interconnection Request contains confidential, commercial information and critical energy infrastructure information. Pursuant to ISO-NE procedural rules, the Interconnection Request is to be treated confidentially.

2. Because the Interconnection Request contains confidential, commercial and financial information, it is exempt from public disclosure under the New Hampshire Right to Know Act. RSA 91-A:5, IV. The Committee has the authority pursuant to RSA 91-A:5, IV to protect this information. Indeed, the Committee granted Laidlaw’s earlier motions for confidential treatment of ISO-NE documents. *See* Order on Pending Motions dated March 24, 2010; Laidlaw Exhibit 56.

3. In *Lamy v. New Hampshire Public Utilities Commission*, 152 N.H. 106 (2005), the New Hampshire Supreme Court described a three-step analysis to determine whether information should be protected from disclosure under the Right to Know Law.

First, we evaluate whether there is a privacy interest at stake that would be invaded by the disclosure. If no privacy interest is at stake, the Right-to-Know

Law mandates disclosure. Next, we assess the public's interest in disclosure. Disclosure of the requested information should inform the public about the conduct and activities of their government. Finally, we balance the public interest in disclosure against the government interest in nondisclosure and the individual's privacy interest in nondisclosure.

Id. at 109.

4. Laidlaw submits that there is a significant privacy issue at stake with respect to the Interconnection Request. The Interconnection Request contains confidential, commercial and financial information that is highly sensitive and would not normally be disclosed to the public. Moreover, the Interconnection Request contains critical energy infrastructure information that should not be disclosed. Any disclosure beyond that to the Committee and Counsel for the Public would likely cause substantial harm to LBB's competitive position. *See Union Leader Corp. v. New Hampshire Housing Finance Authority*, 142 N.H. 540, 554 (1997).

5. The purpose of the relevant motion pending before the Committee is to evaluate the amendments sought by Laidlaw to its Certificate. As such, the public does not have an interest in having access to the confidential commercial and critical energy infrastructure information contained in the Interconnection Request. Accordingly, Laidlaw submits its (and ISO-NE's) legitimate privacy interest in the Interconnection Request vastly outweighs any interest the public may have in its disclosure.

6. Consistent with its prior orders, Laidlaw requests that the Committee grant its Motion for Protective and Order and Confidential Treatment of ISO-New England Interconnection Request.

WHEREFORE, Laidlaw Berlin BioPower, LLC respectfully requests the Committee:

A. Grant this Motion for Protective Order and Confidential Treatment;

B. Issue an order protecting the Interconnection Request and limiting its release to members of the Committee and Counsel for the Public; and

C. Grant such other and further relief as may be just and equitable.

Respectfully submitted,

Laidlaw Berlin BioPower, LLC

By Its Attorneys,

McLANE, GRAF, RAULERSON & MIDDLETON,
PROFESSIONAL ASSOCIATION

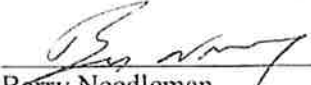
Date: March 9, 2011

By: 

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Certificate of Service

I hereby certify that on this 9th day of March, 2011, the original and 18 copies of the foregoing Motion for Protective Order and Confidential Treatment has been forwarded to Site Evaluation Committee. One copy has been sent to the Attorney General's office.


Barry Needleman