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February 19, 2010

Via Hand Delivery

Thomas S. Burack, Chairman
N.H. Site Evaluation Committee
N.H. Department of Environmental Services
29 Hazen Drive
Concord, NH, 03302

Laidlaw Berlin BioPower, LLC
SEC Docket No. 2009-02

Dear Chairman Burack:

On behalf of Clean Power Development, LLC, I am filing with the NH Site Evaluation Committee an original and 18 copies of a Motion for Intervention in this proceeding.

Please let me know if you have any questions.

Sincerely,

/s/ James T. Rodier

**STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE**

SEC DOCKET NO. 2009-02

**Application of Laidlaw Berlin BioPower, LLC, for a Certificate of Site and Facility for a
70MW Biomass Fueled Energy Facility in Berlin, Coos County New Hampshire**

PETITION FOR INTERVENTION OF CLEAN POWER DEVELOPMENT, LLC

NOW COMES Clean Power Development, LLC (“CPD”), by and through its attorney, and hereby motions the New Hampshire Site Evaluation Committee (“Committee”) to allow it to intervene in the above-captioned matter, and in support hereof, CPD says as follows:

Introduction

1. On December 16, 2009, Laidlaw Berlin BioPower, LLC (hereinafter “LBB” or “Laidlaw”) filed an Application with the Site Evaluation Committee for a Certificate of Site and Facility in Berlin, New Hampshire. According to the Application:

Laidlaw Berlin BioPower, LLC (“LBB”) is proposing to convert and upgrade much of the remaining facility equipment and infrastructure located at the former Fraser Pulp Mill (also referred to as the Burgess Mill) in Berlin, New Hampshire (the “Site”) in order to develop a biomass fueled energy generating facility. Berlin BioPower (the “Facility” or the “Project”) will use whole tree wood chips and other low-grade clean wood as fuel, and will be capable of generating nominally 70 megawatts (MW) of electric power (gross output).

Executive Summary at 4.

2. On February 9, 2010, the Committee issued an Order and Notice scheduling, inter alia, a Pre-Hearing Conference in this proceeding for March 11, 2010 for the purpose of considering petitions to intervene, determining contested issues, preparing a discovery schedule, and discussing proposed hearing schedules.

3. Petitions for Intervention, pursuant to RSA 541-A:32 and Rule SITE 202.11, must set for the facts demonstrating that the petitioner’s right’s, duties, privileges, immunities, or other substantial interests may be affected by the proceeding, ...and that the interest of justice and the prompt and orderly conduct of the proceedings would not be impaired by allowing the intervention.

Description of Intervenor CPD and the Proposed CPD Facility in Berlin

4. CPD is a New Hampshire limited liability company that focuses on the development of renewable and sustainable wood-fueled biomass-energy facilities. CPD's offices are located at 130 Pembroke Road, Suite 100, Concord, New Hampshire.

5. CPD plans to construct, own and operate a biomass facility ("CPD Facility") located in Berlin, New Hampshire which will generate electricity and steam through the combustion of whole tree chips supplied through local markets. The CPD Facility will be capable of generating not more than 29Mw gross output of electricity. Normal net generation will usually be in the 15 to 22mw gross output range based upon thermal load during combined heat and power operation. The CPD Facility will operate with an efficiency of 60% or higher through a combined heat and power design.

6. The site of the CPD Facility is 20 Shelby Street in Berlin, on land adjacent to the City of Berlin Waste Water Treatment Plant. The site, which is identified as Map 116, Lot 23, was purchased from the City of Berlin on December 21, 2009. The site is a "greenfield," i.e., no other facilities have previously existed on this location. The site of the CPD Facility is on the Androscoggin River, approximately 1 ½ miles downstream from the site of the Laidlaw Project.

CPD has Substantial Interests which may be Affected by this Proceeding

7. The CPD Facility will use 340,000 tons of biomass per year on a long term sustainable basis substantially harvested from the working forests within a 30 mile transport radius of Berlin.

8. The Laidlaw Project will need approximately 750,000 tons of biomass per year harvested from within the 100 mile transport radius. Laidlaw Application at 98.

9. CPD believes that there is not enough additional biomass available within the Laidlaw- identified harvest area at a reasonable price and on a sustainable basis for the Laidlaw Project. The issues of sustainability, supply, and reasonable price of biomass delivered are considerably more negatively impacted if both the CPD and Laidlaw projects are to be built.

10. Related to this, Section (h)(5) of the Laidlaw Application states as follows:

The ongoing operations of the Project will largely be supported by the cash flows generated from a long-term Power Purchase Agreement ("PPA") that is being finalized with Public Service Company of New Hampshire ("PSNH") pursuant to an executed Letter of Intent. The PPA is an essential element of the Project's financial viability and will be the dominant positive factor in securing the debt financing. Under the PPA, PSNH will purchase 100% of Project electric output and capacity for a period of 20 years. As a hedge against rising fuel prices, the energy price will be adjusted based on the Project's

cost of biomass fuel pursuant to the terms of the PPA. In addition, during the PPA term, 100% of the available renewable energy certificates that qualify for compliance under the New Hampshire renewable portfolio standard will be sold to PSNH. The price for RECs is based on the New Hampshire Alternative Compliance Payment.

Application at 92. (Emphasis supplied.)

11. If, as represented by Laidlaw, the PPA with PSNH will have a fuel adjustment clause to track the costs of the biomass fuel and pass those cost on to PSNH's regulated ratepayers, CPD and many other biomass energy producers will be at an extreme economic disadvantage to the Laidlaw Facility. PSNH will have passed a regulated monopoly utility advantage to a supposed merchant power producer (Laidlaw) exclusive of all the other merchant biomass energy producers within New Hampshire, either proposed or operational. Apparently this pass through arrangement with PSNH will allow Laidlaw to pay whatever cost is required to obtain the supply of biomass fuel needed for its facility at the expense of other biomass energy producers that will not have this advantage underwritten by the PSNH ratepayers. It is this specific PPA with rate structure and fuel pass that makes the Laidlaw project viable and financeable. Without the PPA, the Laidlaw Project would not be viable or financeable.

12. The Application does not contain any information on PJPD, LLC (the actual owner of the Laidlaw site and facility and the party responsible for its long-term operation), Aware Energy, LLC (the mortgagee), Richard Cyr (the Manager of PJPD and Aware Energy at whose residence those entities are located), NewCo, LLC (the PJPD "affiliate), or Cate Street Capital, LLC (the self-proclaimed owner and operator.)

13. Given the fact that Laidlaw has not disclosed who the actual principals are that are involved in the Laidlaw Project, CPD believes that it is possible that PSNH may be indirectly involved in some manner with contingent ownership rights. This would have an extremely adverse impact on CPD's ability to compete with the Laidlaw Project on fair terms.

14. According to the Laidlaw Application, the proposed Site is classified as a "brownfield with existing subsurface contamination." To the extent that said contamination might enter the Androscoggin River during the construction or operation of the Laidlaw Project, CPD might be adversely affected. CPD considers the Androscoggin River as a possible future source of water for its operation as well as for those potential entities that have expressed interest to co-locate and would have need for clean water.

15. Both the Laidlaw Project and the CPD Facility will interconnect with PSNH's existing 115 Kv transmission loop in the North Country. Accordingly, CPD and Laidlaw may have to compete for transmission capacity to market and sell the output of their respective projects. Laidlaw is listed in the ISO-NE process as a 64MW gross output facility. Laidlaw has requested the Committee to review its Project as a 70MW gross output facility, and most recently filed to be a NEPOOL Participant at 71MW gross output. Increasing the project output at ISO-NE is considered to be a Material Change that could be deemed as cause for Laidlaw to be dropped from the ISO-NE queue with the requirement to re-enter at the end of the queue and start from there as if a new project.

16. Based upon all of the foregoing, CPD's rights and interests will be directly and substantially affected by the Laidlaw Project. CPD will abide by all rulings and orders issued by the Committee.

17. CPD further submits that its intervention will not impair the orderly and prompt conduct of the proceedings.

WHEREFORE, for all of the foregoing reasons, Comes Clean Power Development, LLC respectfully requests the Committee to:

- A. Authorize its intervention in this proceeding as a full party; and
- B. Grant such other and further relief as may be just and equitable.

Respectfully submitted,
CLEAN POWER DEVELOPMENT, LLC
By its Attorney,

James T. Rodier / cap
/s/ James T. Rodier

Dated: February 19, 2010

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Certificate Of Service

I hereby certify that I have provided a copy of this Petition for Intervention to Barry Needleman, Esq.

/s/ James T. Rodier