

**STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE
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**

APRIL 6, 2010

ORDER DENYING MOTION FOR REHEARING OF JONATHAN EDWARDS

On March 24, 2010, I issued an Order on Pending Motions in this docket. In that Order, I denied the petition of Jonathan Edwards to intervene in this docket. On March 26, 2010, Mr. Edwards filed a Motion for Rehearing. On April 1, 2010, Laidlaw Berlin BioPower, LLC (Applicant) filed an objection to Mr. Edwards's Motion for Rehearing.

In the motion for rehearing, Mr. Edwards essentially repeats the factual arguments that he made in his original petition to intervene. He asserts, that as a citizen and business owner in Berlin and a Public Service Company of New Hampshire (PSNH) ratepayer, he has a substantial interest that may be affected by the proceeding. He relies on R.S.A. 162-H:9, II to support his motion and implies that the sole reason he was denied intervention was due to the appointment of counsel for the public.

In its objection, the Applicant cites N.H. Code of Administrative Regulations, Site 202.29 (e), and asserts that Mr. Edwards fails to demonstrate how the order was unlawful, unjust or unreasonable. The Applicant also repeats its previous arguments that Mr. Edwards does not have a particularized interest that is different than that of the general public. The Applicant also responds by noting that to the extent that Mr. Edwards asserts that he has an expertise that will assist the Subcommittee in determining the proposed facility's effect on the local economy or real estate values, such interest would surely be represented by the City of Berlin and the Coos County Commissioners each of whom have been admitted as intervenors.

The interest claimed by Mr. Edwards is no more than a general interest. Mr. Edwards does not assert that he owns abutting or nearby property that may be affected by the proposed facility. He does not assert that his residence or the operation of his business will be directly affected by the operation of the facility. Essentially his entire claim is based upon the fact that he is a resident of Berlin and owns a business in the city. The lack of more than a general interest in the proceeding was the basis for the denial of Mr. Edwards's petition to intervene. He simply has not presented facts establishing the standing required for an intervenor under R.S.A. 541-A: 32 or N.H. Code of Administrative Regulations, Site 202.11.

The fact that the general interest asserted by Mr. Edwards would be adequately represented by counsel for the public was not the reason for denial of his motion. The appearance of counsel for the public, however, will ensure that the interests of all members of the public, including the citizens and business owners of Berlin, will be appropriately represented. Additionally, as required by law, see, R.S.A. 541-A: 39 and R.S.A. 162-H: 16, IV (b), I allowed the intervention of both the City of Berlin (City) and the Coos County Commissioners (County). The City and the County have a common interest in ensuring the orderly development of the region, economic development, and maintaining the value of real estate in the region. Given the participation of counsel for the public, the City of Berlin and the Coos County Commissioners in this docket, Mr. Edwards's participation is likely to be duplicative and may cause unnecessary delay in the proceedings which, by statute, must conclude within 240 days of the acceptance of the Application. See, R.S.A. 162-H: 6-a, VIII.

"The purpose of a rehearing is to direct attention to matters said to have been overlooked or mistakenly conceived in the original decision, and thus invites reconsideration upon the record upon which that decision rested." Dumais v. State of New Hampshire Personnel Commission, 118 N.H. 309, 311 (1978) (internal quotation and citation omitted). Rehearing may be denied when "good reason" or "good cause" does not exist. Mr. Edwards's motion for rehearing does not present "good reason" or "good cause" for rehearing. Additionally, the motion for rehearing fails to persuade me that the original order denying intervention to Mr. Edwards was unjust, unlawful or unreasonable. Therefore, the Motion for Rehearing of Jonathan Edwards is DENIED.



Thomas S. Burack, Presiding officer
Chair, Site Evaluation Committee