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July 19, 2010

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

**Application of Laidlaw Berlin BioPower, LLC for a Certificate of Site and Facility
for a Renewable Energy Facility in Berlin, New Hampshire**

SEC Docket No. 2009-02

Dear Chairman Burack:

On behalf of Clean Power Development, LLC, I am filing with the Committee an original and 18 copies of an Objection to Applicant's Motion for Protective Order and Confidential Treatment for Power Purchase Agreement in this proceeding.

I have sent a copy of this filing to the Parties on the Service List in this proceeding.

Sincerely,

/s/James T. Rodier

A handwritten signature in blue ink that reads "James T. Rodier/cap". The signature is written in a cursive style.

STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

Application of Laidlaw Berlin BioPower, LLC for a Certificate of Site and Facility
for a Renewable Energy Facility in Berlin, New Hampshire

SEC Docket No. 2009-02

**OBJECTION TO APPLICANT'S MOTION FOR PROTECTIVE ORDER AND
CONFIDENTIAL TREATMENT FOR POWER PURCHASE AGREEMENT**

NOW COMES Clean Power Development, LLC ("CPD"), and hereby objects to Applicant's Motion for Protective Order and Confidential Treatment for Power Purchase Agreement and in support hereof, CPD says as follows:

1. On July 9, 2010, Applicant filed a Motion for Protective Order and Confidential Treatment for Power Purchase Agreement in this proceeding. The motion states that:

...the PPA contains confidential, commercial and financial information and therefore is exempt from public disclosure under the New Hampshire Right to Know Act. Anything more than the limited disclosure contemplated herein would likely cause substantial harm to the Applicant's competitive position.

Motion at 1. (Citations omitted.)

2. Pursuant to RSA 362-F:9, the PPA requires approval from the New Hampshire Public Utilities Commission before it can become effective. The Committee can only issue a Certificate of Site and Facility if it can make a finding that the Applicant has adequate financial capability to assure construction and operation of the facility.¹

3. Moreover, Applicant has stated that:

[t]he 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.

Laidlaw Application at 92.

¹ According to Applicant's testimony, "[u]nder RSA 162-H:16, in order to obtain a Certificate of Site and Facility the Applicant must show that it has adequate financial capability to construct and operate the Project in compliance with the terms and conditions of the Certificate." Testimony of Michael B. Bartoszek at 4.

4. As initially filed, the Application stated that “[a]s 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.” Id.²

5. According to Applicant, “the ability to procure fuel is really a competitive issue because it is highly dependent on the price a plant can pay.” Supplemental Testimony of Louis T. Bravakis at 1.

6. In any proceeding before the Public Utilities Commission, the PPA between Applicant and PSNH will inevitably become a public document, with perhaps a few exceptions pertaining to pricing. See, e.g., Master Power Purchase and Sales Agreement and Transaction Confirmation between Pinetree Power, Inc. and PSNH, DE 07-125 available on PUC website.

7. Accordingly, disclosure of the PPA in this proceeding cannot possibly “cause substantial harm to the Applicant’s competitive position.”

8. Additionally, CPD is entitled to a copy of the PPA as an intervenor party in this proceeding. The Committee has ruled that the substantial interests of CPD include the issue of “the sustainability of biomass fuel in the northern forest.” More specifically, the Committee ruled that:

CPD’s Berlin facility will be purchasing biomass, at least in part, from producers in the Northern Forest and, therefore, sustaining the environmental health of that forest is a legitimate interest for CPD to have in this proceeding. Sustaining the health of the Northern Forest is also within the jurisdictional charge of the Committee.

Order at 3 (June 9, 2010).

9. In its Petition for Intervention, CPD stated its interest with respect to biomass availability and sustainability:

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.

Petition at ¶ 9.

10. CPD does not intend to litigate the terms of the PPA in this proceeding. CPD only intends to explore the issue of how the terms of the PPA in general, and biomass cost pass-

² The Application was subsequently amended and restated to read that “[t]he Project will have incentives to acquire fuel at competitive prices.” It appears to CPD that this amendment does not change the substance of the PPA, but was merely an attempt to deflect attention from this matter.

through feature contained in the PPA in particular will impact the environmental health of the Northern Forest. CPD intends to prove that the impact of the Applicant's project on the Northern Forest is unsustainable.

11. A party in a legal proceeding in New Hampshire is entitled to "be fully informed and have access to all evidence favorable to his side of the issue. This is true whether the issue is one which has been raised by him or by his opponent, and whether the evidence is in the possession of his opponent or someone else." Scotsas v. Citizens Insurance Co. of New Jersey, 109 N.H. at 388 (1972).

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

- A. Applicant's Motion for Protective Order and Confidential Treatment for Power Purchase Agreement; 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

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603-559-9987

Dated: July 19, 2010

Certificate Of Service

I hereby certify that I have provided a copy of this Motion for Clarification and/or Rehearing to the Parties on the Service List in this proceeding.

/s/ James T. Rodier

James T. Rodier/cap