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August 13, 2010

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

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

Dear Chairman Burack:

Pursuant to Committee rules, I enclose an original and eighteen (18) copies of Laidlaw Berlin BioPower, LLC's Response to Clean Power Development, LLC's Proposed Ruling of Law Pursuant to RSA 541-A:31, VI(E).

If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Barry Needleman", written over a horizontal line.

Barry Needleman

BN:cb
Enclosure
cc: Service List

STATE OF NEW HAMPSHIRE
BEFORE THE
ENERGY FACILITY SITE EVALUATION COMMITTEE

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

DOCKET NO. SEC 2009-02

**APPLICANT'S RESPONSE TO CLEAN POWER DEVELOPMENT, LLC'S PROPOSED
RULING OF LAW PURSUANT TO RSA 541-A:31, VI(E)**

Applicant Laidlaw Berlin BioPower, LLC ("LBB"), submits this Response to Clean Power Development, LLC's ("CPD") Proposed Ruling of Law Pursuant to RSA 541-A:31(E).

In support of its Response, LBB states as follows:

1. LBB and PSNH executed a Power Purchase Agreement ("PPA") on June 8, 2010. PSNH filed a Petition for Approval of Power Purchase Agreement with the New Hampshire Public Utilities Commission on July 26, 2010.
2. In its Proposed Ruling of Law, CPD contends that the Committee cannot issue LBB a Certificate of Site and Facility until the PUC approves the PPA. CPD's contention is wrong and the Committee should not adopt its Proposed Ruling of Law. If the Committee finds that the approval of the PPA is required for LBB to show its financial capacity to construct and operate the Project, the Committee has the authority to make the approval of the PPA a condition to LBB's Certificate. Simply put, rather than deny LBB a Certificate as CPD suggests, the Committee can make the approval of the PPA a condition of the Certificate.
3. CPD's Proposed Ruling of Law appears to be an attempt to stall LBB's Project. If PSNH had applied for approval of the PPA prior to LBB applying for a Certificate of Site and Facility, the PUC likely would have found PSNH's application to be premature because the Project would have been speculative. Now, CPD argues that because the PPA has not been approved

by the PUC, LBB cannot meet the requirements of RSA 162-H. It is for this reason that the Committee has the authority to grant a conditional Certificate if it finds the approval of the PPA is necessary for LBB to demonstrate it is financially capable to construct and operate the facility.

4. Finally, LBB is intervening in the PUC matter and will request that the PPA be approved on an expedited basis. Accordingly, PSNH's pending Petition for Approval with the PUC is not reason to deny or delay the issuance of a Certificate to LBB.

5. For all of these reasons, the Committee should not adopt CPD's Proposed Ruling of Law.


Respectfully submitted,

LIDLAW BERLIN BIOPOWER, LLC

By Its Attorneys,

McLANE, GRAF, RAULERSON & MIDDLETON,
PROFESSIONAL ASSOCIATION

Date: August 13, 2010

By: 
Barry Needleman
Gregory H. Smith
Cathryn E. Vaughn
Eleven South Main Street
Concord, NH 03301
Telephone (603) 226-0400

Certificate of Service

A copy of this Response to Clean Power Development, LLC's Proposed Ruling of Law has been served by electronic mail this 13th day of August, 2010 to each of the parties on the attached service list and by first class mail to the New Hampshire Attorney General's Office.


Barry Needleman