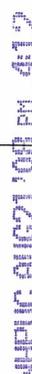


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August 21, 2008

**Via Hand Delivery**

Ms. Debra A. Howland  
Executive Director and Secretary  
New Hampshire Public Utilities Commission  
21 S. Fruit Street, Suite 10  
Concord, NH 03301-2429



***Re: DE 08-077 – PSNH Petition for Approval of Power  
Purchase Agreement and Renewable Energy Certificate Option  
Agreement***

Dear Ms. Howland:

I am writing to notify the Commission that Lempster Wind, LLC supports the filing made by Public Service Company of New Hampshire (“PSNH”) on August 15, 2008 in the above-captioned matter. Lempster Wind, LLC (“Lempster”) is not a party to the above-captioned matter, nor does it wish to be. A limited appearance was filed by the undersigned on behalf of Lempster in order for Lempster to be allowed to monitor proceedings in this matter, appear at the prehearing conference and present arguments to support PSNH’s Motion for Protective Order. Lempster has never sought intervenor status in these proceedings and, apart from taking steps to protect its competitively sensitive commercial and financial information, Lempster does not wish to participate in these proceedings. As the Commission is aware, Lempster is not a public utility subject to the Commission’s jurisdiction because Lempster has received a certificate of site and facility from the New Hampshire Site Evaluation Committee. *See* RSA 362:4-c, I.

Lempster wishes to underscore certain arguments set forth in PSNH’s Objection to Constellation’s Motion to Make Lempster Wind, LLC a Mandatory Party. First, PSNH correctly notes that Lempster’s participation as a party to this docket is not necessary for the Commission to make the public interest determinations required under RSA 362-F:9. The Commission routinely scrutinizes the prudence of PSNH’s power purchase decisions without compelling the party from whom such power is purchased to participate in the Commission’s review proceedings. No good cause exists here to depart from this long-standing practice.

Second, granting Constellation's Motion will have negative consequences for Lempster and may likely have a chilling effect on other renewable energy developers who seek to do business in New Hampshire. Constellation incorrectly asserts, at paragraph 6 of its Motion, that "Lempster will not be harmed by providing information requested of it." This simplistic approach overlooks the following significant points. Lempster is at a critical phase in the construction of its facility. If Constellation's Motion is granted, resources that are currently devoted to overseeing the construction of the Lempster facility would be diverted to these proceedings, thereby disrupting the project's timeline and other operations. In addition, if Lempster is required to compile and disclose competitively sensitive commercial and financial information relating to the negotiation, formation, execution and interpretation of the agreements that are at issue in these proceedings, Lempster and its affiliates would be disadvantaged in future power and REC purchase negotiations. Further, granting Constellation's Motion would send a negative message to other renewable energy developers who might be interested in locating or doing business in New Hampshire. Renewable energy developers who otherwise might find New Hampshire's business climate attractive, may shy away from doing business here if their competitive operations and business strategies can be publicly probed by their competitors in a regulatory process from which competitive electricity generators are otherwise exempt. This would have far-reaching implications and would undermine the underlying purpose of RSA 362-F, which is to stimulate the investment in renewable energy resources.

In support of its allegations that the Commission should join Lempster as a party to these proceedings, Constellation essentially argues that the Commission needs to examine whether the arrangements between Lempster and PSNH are "substantially more lucrative to Lempster than the terms otherwise available in the then-prevailing market and therefore are not in the public interest." This argument is without merit as it not germane to the public interest issue to be considered under RSA 362-F:9. Nowhere in that statute did the legislature even hint at requiring the Commission to evaluate whether a renewable energy generation facility's contracts with distribution companies are more lucrative than other arrangements that the renewable energy facility could have reached with others. Even if RSA 362-F:9 could be interpreted in that manner, such an examination – while of commercial interest to Constellation and other competitive market participants - would have absolutely no bearing on the public interest question. It simply does not follow that if a distribution company provided a renewable energy facility with a "more lucrative" offer than the facility received or might have received from others, that the distribution company's transaction is necessarily against public interest. In other words, simply because a renewable energy facility may appear to have received a "good deal" does not, in and of itself, mean that the distribution company's customers received a "bad deal". The legislature provided a comprehensive list of issues that the Commission must examine in deciding whether REC and related power purchase agreements are in the public interest. Analyzing whether a renewable energy facility received a "lucrative arrangement" is not among them. Accordingly, Constellation's argument concerning the reason it believes that Lempster must be joined as a mandatory party to these proceedings must fail.

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August 21, 2008  
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In addition to denying Constellations' Motion to Make Lempster Wind, LLC a Mandatory Party, the Commission should deny Constellation's Motion to Compel. The following Commission Orders support such a denial:

Granite State Electric Company Default Service, DE 04-189, Order No. 24, 412 (12/22/04) (Information regarding bidders responding to a distribution company's request for proposals for default service is clearly commercially sensitive in a competitive environment and therefore should be protected.)

PSNH's Petition to Establish Energy Rates, DE 05-164, Order No. 24,579 (1/20/06) (Disclosure of terms relating to PSNH's REC sales would compromise both PSNH and the contractor's ability to negotiate the purchase price of RECs in the future.")

TDS Petition for Alternative Form of Regulation, DT 07-027, Order No. 24,802 (11/2/07) (Competitor denied access to competitively sensitive information in an adjudicative proceeding.)

Lastly, Lempster concurs with the relief sought in PSNH's Motion to Withdraw Constellation's Grant of Intervenor Status. Please let me know if there are any questions about the foregoing.

Very truly yours,

  
Susan S. Geiger

cc. pdf to the Service List in DE 08-077

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