

**THE STATE OF NEW HAMPSHIRE
before the
PUBLIC UTILITIES COMMISSION**

Public Service Company of New Hampshire

Petition for Approval of PPA with Laidlaw Berlin BioPower, LLC

Docket No. DE 10-195

**Motion for Confidential Treatment
Pursuant to RSA Chapter 91-A
and
N.H. Code Admin. Rules Puc § 203.08**

November 19, 2010

Pursuant to RSA 91-A:5,(IV)(Supp.) and N.H. Code Admin. Rules Puc § 203.08, Public Service Company of New Hampshire ("PSNH" or the "Company") hereby requests confidential treatment and the issuance of a protective order for certain confidential, commercial, or financial information contained in the responses by PSNH to the following four data requests of Commission Staff: Questions 1-17, 1-18, 5-4, and 5-6.¹

In support of this Motion for Confidential Treatment, PSNH says the following:

1. RSA 362-F:9 allows an electric distribution company to seek approval of multi-year purchase agreements with renewable energy sources for renewable energy certificates, in conjunction with or independent of purchased power agreements from such sources, to meet reasonably projected renewable portfolio requirements and default service needs.
2. N.H. Code Admin. Rules Puc § 203.08(a) provides that the Commission shall upon motion issue a protective order providing for the confidential treatment of

¹ The first digit refers to which set of data requests the question is in (i.e., set 1, set 3, or set 5) of the five sets propounded on PSNH by Commission Staff.

one or more documents upon a finding that the document or documents are entitled to such treatment pursuant to RSA 91-A:5, or other applicable law.

3. Rule Puc § 203.08(b) requires a motion for confidential treatment to include:
 - i.) the documents, specific portions of documents, or a detailed description of the types of information for which confidentiality is sought; ii.) specific reference to the statutory or common law support for confidentiality; and, iii.) a detailed statement of the harm that would result from disclosure and any other facts relevant to the request for confidential treatment.
4. On June 8, 2010, PSNH entered into a Power Purchase Agreement (“PPA”) with Laidlaw Berlin BioPower, LLC (“LBB”) regarding LBB’s proposed 70 MW (gross) biomass fueled generating station in Berlin, New Hampshire (the “Project”), to purchase the RECs produced by the Project, as well as the energy and capacity produced from the Project.
5. On October 14, 2010, the Commission issued its “Prehearing Conference Order” (Order No. 25,158) in this proceeding. Included in that Order was a procedural schedule, which included an expedited discovery schedule.²
6. During the discovery period (to date), PSNH received five separate sets of questions from Commission Staff which included 97 separate numbered questions. PSNH provided timely responses to each of these questions.
7. PSNH is seeking confidential treatment for portions of only four of PSNH’s 97 responses to Staff’s data requests. For each of those responses, PSNH provided the confidential information to Staff pursuant to the procedure set forth in Rule Puc 203.08. The data request responses which included confidential materials for which PSNH hereby seeks confidential treatment and a protective order are the

² Order 25,158 initially required data requests to be served on PSNH by October 25. The Commission later extended this deadline to November 1. On Wednesday (November 17) the deadline was yet again been extended until November 30.

responses by PSNH to the following data requests of Commission Staff:
Questions 1-17, 1-18, 5-4, and 5-6.

8. As required by Rule Puc 203.09(d), PSNH routinely serves each party to a proceeding with every response to data requests answered by the Company. However, to the extent that certain information is the subject of a protective order issued by the Commission, such information will be handled in accordance with the terms of the protective order. If confidential materials are provided in response to questions posed by Commission Staff, Rule Puc 203.08 provides that such information may be provided to Staff on an interim confidential basis, pending the filing of a motion for confidential treatment. Rule Puc 203.08(d) provides:

(d) In lieu of immediately filing a motion for confidential treatment, a party providing a document to the commission staff in discovery that the party wishes to remain confidential shall accompany the submission with a written statement that:

(1) The party submitting such documents has a good faith basis for seeking confidential treatment of the documents pursuant to this rule; and

(2) Such party intends to submit a motion for confidential treatment regarding such documents at or before the commencement of the hearing in such proceedings.

9. As noted earlier, PSNH has a good faith basis to believe that information provided to Commission Staff in response to Staff questions 1-17, 1-18, 5-4, and 5-6 is entitled to confidential treatment. That information was provided pursuant to the procedure set forth in Rule Puc 203.08 (d) and (e). In response to each of the enumerated questions asked by Staff that required the provision of confidential materials, PSNH precisely followed the procedure set forth in Rule Puc 203.08(d) by noting in each response:

Pursuant to Rule Puc 203.08(d), PSNH has a good faith basis for seeking confidential treatment of the attachments to this response, and, intends to submit a motion for confidential treatment

regarding such documents at or before the commencement of the hearing in this proceeding.

10. When the Rule Puc 203.08(d) procedure is utilized to respond to Staff's questions, Rule Puc 203.08(e) protects such confidential information by requiring that the information "shall be treated as confidential, provided that the party submitting the documents thereafter files a motion for confidential treatment at or prior to the commencement of the hearing in the proceeding."
11. Pursuant to Rule Puc 203.08 (h), if the Commission ultimately determines that the information in question is indeed subject to confidential treatment, PSNH will comply with the conditions the Commission determines are necessary to preserve such confidentiality. If, on the other hand, pursuant to Rule Puc 203.08 (i) the Commission determines that any of the information is not to be treated as confidential, PSNH shall then provide such information as necessary.
12. The questions for which confidential responses were provided sought the following information:³
 - a. Q 1-17: Please provide each and every offer, bid or proposal made by a renewable energy developer to sell renewable energy certificates, energy, or capacity to PSNH which was received after negotiations with Laidlaw began.
 - b. Q 1-18: Has PSNH issued a competitive solicitation to purchase renewable energy certificates, energy, or capacity from renewable energy developers since negotiations with Laidlaw began? If the answer is yes, please provide copies of the solicitations, the list of potential suppliers that received each solicitation, the responses to each solicitation, and the identity of the winning bidder for each solicitation.
 - c. Q 5-4: Please provide on a monthly basis: (i) the number of Class 1 RECs produced by Schiller Unit 5 in 2009 and 2010; (ii) the identity of each purchaser of those Class I RECs; and (iii) the amount bought by each purchaser.

³ Copies of PSNH's responses to these questions, not including the confidential materials, are attached hereto in Attachment 1. Per Rule Puc 203.08(f) copies of the confidential materials are being provided to the Commission under separate cover.

- d. Q 5-6: Regarding the proposals provided to Staff by PSNH in response to Staff 1-17, please provide copies of all correspondence between PSNH and the developers concerning such proposals including PSNH's final response.
13. If the confidential materials provided to Staff are not provided with protective treatment, such disclosure would detrimentally impact both PSNH's ability to attract negotiating partners in the future, as well its ability to buy and sell energy, RECs and capacity in the competitive market place.
14. RSA Chapter 91-A is commonly referred to as the "Right-to-Know Law." The Right-to-Know Law provides each citizen with the right to inspect government records in the possession of the Commission. However, under RSA 91-A:5, certain government records are exempted from the disclosure requirements of RSA Chapter 91-A. In particular, RSA 91-A:5, IV exempts from disclosure records pertaining to confidential, commercial, or financial information.
15. The New Hampshire Supreme Court has had the opportunity to discuss the requirements of the Right-to-Know Law on several occasions. Most recently, in *Professional Firefighters of New Hampshire v. Local Government Center, Inc.*, 2010 WL 323119, 6 (N.H.) (January 29, 2010), the Court noted: "The Right-to-Know Law does not guarantee the public an unfettered right of access to all governmental workings, as evidenced by the statutory exceptions and exemptions." *See also Goode v. New Hampshire Office of Legislative Budget Assistant*, 148 N.H. 551, 553 (2002), and *Brent v. Paquette*, 132 N.H. 415, 426, (1989) ("[T]he Right-to-Know Law guarantees every citizen the right to inspect all public records except as otherwise prohibited by statute or RSA 91-A:5."
16. The Court opined on the confidential, commercial, or financial information exemption of the Right-to-Know Law in *Union Leader Corp. v. New Hampshire Housing Finance Authority*, 142 N.H. 540 (1997), a case cited by the Commission dozens of times. In its decision, the Court noted:

The terms “commercial or financial” encompass information such as business sales statistics, research data, technical designs, overhead and operating costs, and information on financial condition. *Landfair v. United States Dept. of Army*, 645 F.Supp. 325, 327 (D.D.C.1986); *see Comstock Intern. v. Export-Import Bank of U.S.*, 464 F.Supp. 804, 806 (D.D.C.1979) (loan agreements are financial or commercial information). Whether documents are commercial depends on the character of the information sought. Information is commercial if it relates to commerce. *See American Airlines, Inc. v. Nat. Mediation Bd.*, 588 F.2d 863, 870 (2d Cir.1978).

142 N.H. at 553.

The Court also noted:

To best effectuate the purposes of our Right-to-Know Law, whether information is “confidential” must be determined objectively, and not based on the subjective expectations of the party generating it. “To determine whether [records] ... are exempt as confidential, the benefits of disclosure to the public must be weighed against the benefits of non-disclosure to the government.” *Chambers v. Gregg*, 135 N.H. 478, 481 (1992). We find instructive the standard test employed by the federal courts: To show that information is sufficiently “confidential” to justify nondisclosure, the party resisting disclosure must prove that disclosure “is likely: (1) to impair the [State's] ability to obtain necessary information in the future; or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained.” *National Parks and Conservation Ass'n v. Kleppe*, 547 F.2d 673, 677-78, (D.C.Cir.1976) (quotations omitted) (*National Parks II*).

Id. at 553-554 (internal citations omitted).

17. In determining whether commercial or financial information should be deemed confidential and private, the Commission has followed *Union Leader* as well as the three-step analysis applied by the New Hampshire Supreme Court in *Lambert v. Belknap County Convention*, 157 N.H. 375, 382 (2008). The *Lambert* analysis requires: i) an evaluation of whether there is a privacy interest at stake that would be invaded by the disclosure -- when commercial or financial information is involved, this step includes a determination of whether an interest in the confidentiality of the information is at stake; ii) when a privacy interest is at stake, the public's interest in disclosure is assessed; and, iii) when there is a public interest in disclosure, that interest is balanced against any privacy interests in nondisclosure. *See Unifil Energy Systems, Inc.*, Order No. 25,054, Docket No. DE

09-009 (December 18, 2009); *Public Service Company of New Hampshire*, Order No. 25,059, Docket No. DE 09-158 (December 31, 2009).

18. The Commission, using the *Union Leader* and *Lambert* standards discussed above, has regularly granted confidentiality for information substantially similar to that contained in PSNH's responses to Staff Questions 1-17, 1-18, 5-4, and 5-6. For example:

- a. "If public disclosure of confidential, commercial or financial information would harm the competitive position of the person from whom the information was obtained, the balance would tend to tip in favor of non-disclosure." *Re National Grid plc*, 92 NH PUC 279, 326 (2007) (granting confidential treatment for information regarding system upgrades and capacity contain information that, if publicly disclosed, would likely harm its competitive interests and the interests of ratepayers who would ultimately bear the burden of increased contract costs resulting from disclosure);
- b. "Inasmuch as disclosure in this instance could negatively affect customers, we do not find the public's interest in review of the financial, commercially sensitive information sufficient to outweigh the interest that National Grid and its bidders have in maintaining confidentiality of such information." *Re Granite State Electric Company dba National Grid*, 92 NHPUC 215, 219 (2007) (granting a protective order for information received by National Grid as part of a competitive RFP process including "a brief discussion of the selection of the winning bidder, a bidder key that identifies the suppliers who participated in the RFP, the comparative energy and capacity prices received from the bidders (including the estimated total cost according to the evaluation loads provided with the RFP), a ranking of the transactions offered by each bidder in terms of financial security (including consideration of reasonable extension of credit to National Grid and the creditworthiness of the supplier and the credit assurance offered), the information provided by each bidder in the

proposal submission forms, and, a redlined version of the negotiated purchase and sale agreement.”);

- c. Regarding a series of contracts provided by PSNH: “The information in the documents is financially or commercially sensitive in the sense that its public disclosure would reveal information that could place Ensio Resources at a competitive disadvantage relative to other firms that purchase end products of coal-burning processes and PSNH at a competitive disadvantage in future negotiations with end-product purchasers.” *Re Public Service Company of New Hampshire*, 84 NHPUC 484, 485 (1999);
- d. Granting confidential treatment for bidder information obtained during the auction sale of the Seabrook Nuclear Generating Station: “Disclosure could result in competitive damage to bidders, and also impair the ability of the state to obtain such information in the future. Not only do we believe the information is commercially sensitive, we also believe that public disclosure of bids, bid analyses, financial assessments, and data related to the auction would chill future auction transactions, thereby limiting the results that might otherwise have been achieved.” *Re North Atlantic Energy Corporation*, 87 NHPUC 396, 399 (2002);
- e. Confidential treatment was granted for similar confidential, commercial, or financial information contained in the Power Purchase Agreement and Renewable Energy Certificate Option Agreement entered into between PSNH and Lempster Wind, LLC in Docket No. DE 08-077. *See Order No. 24,965*, May 1, 2009, at 2.

19. Pursuant to Rule Puc 203.08(b), PSNH provides the following information regarding:

- (i) The documents, specific portions of documents, or a detailed description of the types of information for which confidentiality is sought;
 - (ii) Specific reference to the statutory or common law support for confidentiality;
- and

(iii) A detailed statement of the harm that would result from disclosure and any other facts relevant to the request for confidential treatment.

a. Q 1-17: Staff requested PSNH to provide each and every offer, bid or proposal made by a renewable energy developer to sell renewable energy certificates, energy, or capacity to PSNH which was received after negotiations with Laidlaw began.

i. The documents for which confidentiality is sought include offers, bids, or proposals made by renewable energy developers to sell renewable energy certificates, energy, or capacity to PSNH.

ii. Similar requests for confidential treatment have been made in past proceedings and have been consistently granted by the Commission.

1. *UNITIL Energy Systems, Inc.*, Docket No. DE 10-028, Order No. 25,149 (September 24, 2010) (Confidential treatment granted for a narrative discussion of bids received; a list of the suppliers who responded to the RFP; a pricing summary consisting of a comparison of all price bids; each bidder's final pricing);
2. *Public Service Co. of New Hampshire*, Docket No. DE 10-121, Order No. 25,167 (November 9, 2010) (Confidential treatment granted for REC sales prices. The Commission noted, "Disclosure of this information to...a competitor of PSNH...would be particularly detrimental to PSNH in its negotiation of the highest price for its surplus RECs..." *slip op.* at 8.
3. Significantly, in the only two other proceedings before the Commission instituted under RSA 362-F:9, the Commission determined that confidential treatment of the terms and conditions of the power purchase agreements was necessary and proper.

a. *Public Service Company of New Hampshire*, Docket No. 07-125 (Petition for Approval of Power Purchase Agreements with Pinetree Power, Inc. and Pinetree Power-Tamworth, Inc.), Order No. 24,839 (April 4, 2008) (“Having reviewed the detailed terms and conditions of the power purchase agreements contained in the confidential record, we have determined that the release of such information to the public could put PSNH, as well as the plant owners, at a competitive disadvantage in negotiating similar agreements with other parties in the future.” *slip op.* at 9-10).

b. *Public Service Company of New Hampshire*, Docket No. 08-077 (Petition for Approval of a Power Purchase Agreement and a Renewable Energy Certificate Option Agreement with Lempster Wind, LLC), Order No. 24,965 (May 1, 2009) (“The Commission granted confidential treatment to the pricing terms for energy, capacity and RECs as well as certain terms of the REC option agreement... .” *slip op.* at p. 7, fn. 2).

iii. Release of this information would likely hamper PSNH’s ability to engage suppliers in competitive bidding in the future, which would, in turn, make it more difficult to obtain supply needs at competitive prices and thereby increase rates to customers.

UNITIL Energy Systems, Inc., Id.; PSNH, Id.

b. Q 1-18: Staff requested copies of competitive solicitations to purchase renewable energy certificates, energy, or capacity from renewable energy developers since negotiations with Laidlaw began. PSNH provided copies of two such solicitations including the RFPs, bid distribution lists, and

blank agreements. Only the details identifying the winning bidders and amounts were identified by PSNH as confidential information.

- i. The documents for which confidentiality is sought include details identifying the winning bidders and amounts.
 - ii. Similar requests for confidential treatment have been made in past proceedings and have been consistently granted by the Commission. See paragraph (a)(ii), above.
 - iii. Harm: See paragraph (a)(iii), above.
- c. Q 5-4: Staff requested the identity of each purchaser of Class I RECs produced at Schiller Unit 5 and the amount bought by each purchaser.
 - i. The documents for which confidentiality is sought include the identity of the purchasers of PSNH's Class I RECs as well as the quantities purchased by them.
 - ii. Similar requests for confidential treatment have been made in past proceeding and have consistently been granted by the Commission. *Public Service Company of New Hampshire*, Docket No. DE 09-180, Order No. 25,121 (June 28, 2010) (information regarding REC purchase deemed confidential); *Public Service Co. of New Hampshire*, Docket No. DE 10-121, Order No. 25,167 (November 9, 2010) (PSNH has a privacy interest in the price and amount of RECs sold that are related to Schiller Unit #5 and that the information is of the type of confidential financial information set forth in RSA 91-A:5, IV).
 - iii. The disclosure of this information would impede PSNH's ability to negotiate competitive rates in contracts with supplemental power suppliers for energy and RECs. The inability of PSNH to negotiate competitive prices in such situations will increase energy rates for its customers. See *Public Service Company of New Hampshire* (Docket No. DE 09-180) and *Public Service Company of New Hampshire* (Docket No. DE 10-121), *supra*.

- d. Q 5-6: Staff requested copies of all correspondence between PSNH and developers concerning proposals made by a renewable energy developer to sell renewable energy certificates, energy, or capacity to PSNH.
 - i. The documents for which confidentiality is sought include all responsive correspondence between PSNH and other renewable energy developers.
 - ii. Similar requests for confidential treatment have been made in past proceedings and have consistently been granted by the Commission. *In re North Atlantic Energy Corp.*, 87 NH PUC 396 (2002) (correspondence from third party bidders including bids and materials related to bid analysis provided confidential treatment).
 - iii. The harm of disclosure includes commercial bidders having a strong and legitimate expectation of confidentiality since the nature and structure of proposals might reveal sensitive aspects of their competitive market strategies. *In re North Atlantic Energy Corp.*, *Id.*

20. The Commission should follow its precedent in this regard established in *Re Kearsarge Telephone Company*, 92 NH PUC 441 (2007) and *Public Service Co. of New Hampshire*, Docket No. DE 10-121, Order No. 25,167 (November 9, 2010).

21. In *Kearsarge*, the Commission was faced with a nearly identical situation as in this docket. segTEL, Inc., a competitor of petitioner Kearsarge Telephone Co., was granted intervenor status in a Commission adjudicative proceeding. Kearsarge, in response to certain data requests, provided what it deemed to be confidential, competitively sensitive information to Commission Staff, but not to segTEL. segTEL filed a Motion to Compel, asking the Commission to order Kearsarge to provide it with the competitively sensitive data request responses. segTEL complained that it could not participate fully in the proceedings without

the information in question. The Commission denied the Motion to Compel, stating:

In the *North Atlantic Energy Corporation* case relied upon by segTEL, the Commission agreed with a citizens' advocacy group, the Campaign for Ratepayers' Rights (CRR), that it was entitled to confidential information of the asset sales manager and auction advisor that assisted the Commission with overseeing the sale of a majority interest in the Seabrook nuclear power plant... .

The situation here differs from the CRR situation in several key respects. First, CRR was in no sense a commercial competitor of any Seabrook owner or anyone with a pecuniary interest in the outcome of the auction. Second, the purpose of CRR's participation was to vindicate the interests of New Hampshire electric consumers who, in the view of CRR, had been ill-served by Seabrook's owners since the facility was first proposed. Third, CRR was apparently content to limit access to its counsel, rather than insisting that others with technical expertise needed to be involved in the review. Finally, segTEL's role in the instant case is not analogous to that of CRR in the Seabrook sale; here, the Office of Consumer Advocate appears as the statutorily authorized advocate for residential customer interests.

92 NH PUC at 443.

22. In the recently announced *Public Service Co. of New Hampshire* (Docket No. DE 10-121) decision, the Commission ruled that parties who are participants in the competitive energy market should not receive copies of confidential market-related information. Order No. 25,167, *slip op.* at 6 and 8.
23. As was the case in both the *Kearsarge* and recent *Public Service Co. of New Hampshire* cases, in the instant proceeding PSNH provided competitively sensitive information to Commission Staff, but withheld that competitively sensitive information from intervenors. As in *Kearsarge* and *PSNH*, motions to compel the release of the information identified as confidential were filed by commercial competitors of both PSNH and Laidlaw -- the Wood-Fired IPPs (Bridgewater Power Company, L.P., Pinetree Power, Inc., Pinetree Power-Tamworth, Inc., Springfield Power LLC, Whitefield Power & Light Company, and Indeck Energy -- Alexandria, LLC) and Concord Steam Corporation. As in *Kearsarge* and *PSNH*, none of these competitor-intervenors are "citizens'

advocacy groups.” As in *Kearsarge* and *PSNH*, the Office of Consumer Advocate is participating in this proceeding, and has been provided with the relevant information pursuant to a confidentiality agreement. The Commission should follow its results in *Kearsarge* and *PSNH*, and deny these competitors’ attempts to access the confidential, competitively sensitive information.

24. Given the type of information for which confidential treatment is requested herein (i.e., bids or proposals from other competitive market participants; details identifying the winning bidders in competitive solicitations for RECs and amounts purchased; copies of proposals made by other renewable energy developers to sell renewable energy certificates, energy, or capacity to PSNH; and, copies of all correspondence between PSNH and developers concerning proposals made by a renewable energy developer to sell renewable energy certificates, energy, or capacity to PSNH), it is not reasonable to supply the confidential information to competitor-intervenors even if they agree to execute a confidentiality agreement. As PSNH noted during the September 29, 2010, prehearing conference in this proceeding, giving such information to competitor-intervenors “defeats the whole purpose of having it confidential in the first place.”⁴ Nor is it reasonable or necessary to provide such information to the competitor-intervenors’ outside counsel. In some cases, such counsel have been and continue to be significantly involved in either the negotiation process for similar power purchase agreements on behalf of their clients, or are principals in such market participants themselves. Therefore, receipt of such information by outside counsel is tantamount to giving it to the competitors themselves.


WHEREFORE, PSNH respectfully requests that the Commission grant confidential treatment and the issuance of a protective order for certain confidential, commercial, or financial information contained in the responses by PSNH to the following four data requests of Commission Staff: 1-17, 1-18, 5-4, and 5-6. PSNH further requests that such confidential

⁴ Transcript, September 29, 2010, p. 79.

information be withheld from competitor-intervenors per the Commission's decisions in *Kearsarge* and *PSNH*.

Respectfully submitted this 19th day of November, 2010.

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

By: _____

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Attachment 1

**Public Service Company of New
Hampshire
Docket No. DE 10-195**

Data Request STAFF-01

**Dated: 10/08/2010
Q-STAFF-017
Page 1 of 22**

**Witness: Terrance J. Large
Request from: New Hampshire Public Utilities Commission Staff**

Question:

Please provide each and every offer, bid or proposal made by a renewable energy developer to sell renewable energy certificates, energy, or capacity to PSNH which was received after negotiations with Laidlaw began.

Response:

Pursuant to Rule Puc 203.08(d), PSNH has a good faith basis for seeking confidential treatment of the attachments to this response, and, intends to submit a motion for confidential treatment regarding such documents at or before the commencement of the hearing in this proceeding.

See the attached proposals.

**Public Service Company of New
Hampshire
Docket No. DE 10-195**

Data Request STAFF-01

Dated: 10/08/2010

Q-STAFF-018

Page 1 of 41

Witness: Richard C. Labrecque
Request from: New Hampshire Public Utilities Commission Staff

Question:

Has PSNH issued a competitive solicitation to purchase renewable energy certificates, energy, or capacity from renewable energy developers since negotiations with Laidlaw began? If the answer is yes, please provide copies of the solicitations, the list of potential suppliers that received each solicitation, the responses to each solicitation, and the identity of the winning bidder for each solicitation.

Response:

Yes, PSNH has issued two solicitations to purchase renewable energy certificates from renewable energy developers since negotiations with Laidlaw began.

Solicitation 1:

On May 7, 2010 PSNH issued a solicitation to purchase 2010 Vintage Year Class IV NH RECs. Following is a copy of the solicitation, list of potential suppliers that received each solicitation. PSNH did not receive any bids on this solicitation.

"Public Service Company of New Hampshire (PSNH) is pleased to announce the issuance of a Request for Proposals ("RFP") soliciting offers to supply 2009 Class IV Renewable Energy Certificates ("RECs") that have been approved by the New Hampshire Public Utilities Commission.

Bids are due no later than:
12 pm EPT on Friday, May 14, 2010.
E-mail: bradwcl@nu.com
Attn: Christie Bradway
Must use enclosed bid form.

Solicitation 2:

On September 15, 2010 PSNH issued a solicitation to purchase 2010 and 2011 Vintage Year Class III and IV NH RECs. Following is a copy of the solicitation, list of potential suppliers that received each solicitation.

"Public Service Company of New Hampshire (PSNH) is pleased to announce the issuance of a Request for Proposals ("RFP") soliciting offers to supply 2010 and 2011 NH Class III and IV Renewable Energy Certificates ("RECs") that have been approved by the New Hampshire Public Utilities Commission."

Bids are due no later than:
12 pm EPT on Wednesday, October 6, 2010.
E-mail: bradwcl@nu.com
Attn: Christie Bradway
Must use enclosed bid form.

Bids were due October 6, 2010.

The bids received and the winning bidder(s) are provided in Attachment 7.

Pursuant to Rule Puc 203.08(d), PSNH has a good faith basis for seeking confidential treatment of the contents of Attachment 7, and, intends to submit a motion for confidential treatment regarding such documents at or before the commencement of the hearing in this proceeding.

**Public Service Company of New
Hampshire
Docket No. DE 10-195**

Data Request STAFF-05

**Dated: 11/01/2010
Q-STAFF-004
Page 1 of 2**

**Witness: Terrance J. Large
Request from: New Hampshire Public Utilities Commission Staff**

Question:

Please provide on a monthly basis: (i) the number of Class 1 RECs produced by Schiller Unit 5 in 2009 and 2010; (ii) the identity of each purchaser of those Class I RECs; and (iii) the amount bought by each purchaser.

Response:

Pursuant to Rule Puc 203.08(d), PSNH has a good faith basis for seeking confidential treatment of the attachment to this response, and, intends to submit a motion for confidential treatment regarding such document at or before the commencement of the hearing in this proceeding.

The confidential attachment contains the number of RECs produced by Schiller Unit 5 in 2009 and 2010, the identity of the purchaser, and the amount purchased.

As the response to subpart (i) is not considered confidential, it is being provided below.

- (i) Schiller 5 produced 318,945 RECs in 2009 and 263,032 RECs through October 2010.

Witness: Terrance J. Large
Request from: New Hampshire Public Utilities Commission Staff

Question:

Regarding the proposals provided to Staff by PSNH in response to Staff 1-17, please provide copies of all correspondence between PSNH and the developers concerning such proposals including PSNH's final response.

Response:

Pursuant to Rule Puc 203.08(d), PSNH has a good faith basis for seeking confidential treatment of this response including all attachments to this response , and, intends to submit a motion for confidential treatment regarding such documents at or before the commencement of the hearing in this proceeding.

The eight (8) attachments to PSNH's response to Staff 1-17 included proposals from five entities. Attachments 3 and 4 were documents related to the proposal provided in Attachment 2. Attachment 6 was related to the proposal provide in Attachment 5. Thus, PSNH will respond to Staff 5-6 by referencing the five proposals provided in Staff 1-17 Attachments 1, 2, 5, 7 and 8.

Attachment 1 - See Attachment 1 to this response which includes a number of email communications. The final correspondence was a phone call from PSNH to the individual representing the Seller. During this phone call, which occurred on Sep 2, 2010, PSNH (Richard Labrecque) informed the individual that PSNH was not in need of additional energy for 2011 and that the type of renewable energy certificates for which the facility was qualified (namely, Connecticut Class I) were of no value to PSNH customers.


Attachment 2 and 5 - the public record in Docket DE 09-067 contains the requested information.

Attachment 7 - See Attachment 2 to this response which includes a number of emails and other documents responsive to the questions. PSNH has also hosted two meetings with the proposed Seller, one on October 25, 2010 and one May 19, 2010, to discuss their proposal. PSNH's final response is included in the Nov 5, 2010 memo in Attachment 2.

Attachment 8 - See Attachment 3 to this response which includes a number of email communications. This individual has also made phone contact with PSNH (Richard Labrecque) on perhaps two occasions recently in which he was provided information substantially identical to that contained in the attached. Mr. Labrecque did not make note of the dates of these phone calls.

CERTIFICATE OF SERVICE

I hereby certify that on November 19, 2010, I served an electronic copy of this filing with each person identified on the Commission's service list for this docket pursuant to Rule Puc 203.02(a).



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