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June 28, 2010

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

**Re: COMPLAINT OF CLEAN POWER DEVELOPMENT, LLC  
AGAINST PUBLIC SERVICE OF NEW HAMPSHIRE  
Docket No. DE 09-067**

Dear Ms. Howland:

I am writing on behalf of Clean Power Development, LLC to briefly reply to PSNH's letter to the Commission in this proceeding dated June 18, 2010.

1. PSNH contends in its letter that "PSNH does not surrender its right to manage its own affairs merely by devoting its private business to a public use."

Our Supreme Court has ruled that the PUC is vested with broad statutory power:

The PUC was established to provide comprehensive provisions for the establishment and control of public utilities in the State, and was endowed with "important judicial duties" and "large administrative and supervisory powers." In awarding reparation, the PUC performs a judicial function. As such, it must not only perform duties statutorily created, but also exercise those powers inherent within its broad grant of power.

Appeal of Granite State Elec. Co., 120 N.H. 536, 539 (1980) (Citations omitted) (Emphasis added.)

Accordingly, CPD strongly believes that the Commission has the power and authority to prevent a regulated utility from retaliating against a complainant in a docketed complaint proceeding. Further, Shelby Street is a public street. The upgrade of Shelby Street in Berlin will constitute a public benefit for various public purposes for the City of Berlin.

PSNH has said it is not retaliating against CPD. However, it has also said it will not discuss the easement for Shelby Street with CPD until the PUC docket matter is resolved. In

essence, it is using the complaint CPD filed with the PUC, which the PUC has decided to hear, as a reason to delay its consideration of the CPD easement request, thus delaying the CPD project. That is direct retaliation.

2. PSNH contends in its letter that “CPD has accused PSNH of felonious criminal misconduct.” CPD did not accuse PSNH of criminal misconduct.<sup>1</sup>

Sincerely,

**/s/James T. Rodier**

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<sup>1</sup> In a civil conspiracy, express agreement is not necessary, and all that is required is that there be a tacit understanding, as where two automobile drivers suddenly and without consultation decide to race their cars on the public highway. PSNH and Laidlaw have agreed to a “guaranteed” rate for the Laidlaw project which has the effect of constraining deployment of renewable (and competitive) power supplies to clear the path for the Laidlaw project and PSNH’s (unauthorized) objective to own rate-based renewables. PSNH’s activities amount to an intentional pattern of conduct designed to advance its long term objective for greater risk-free return on investment at the expense of ratepayers and market-based suppliers.