

THE STATE OF NEW HAMPSHIRE

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January 28, 2011

Re: DE 10-195, Public Service Company of New Hampshire
Petition for Approval of Power Purchase Agreement between Public Service
Company of New Hampshire and Laidlaw Berlin BioPower, LLC
Motion to Strike - Rehearing

To the Parties:

On January 24, 2011, the Office of Consumer Advocate (OCA) filed with the Commission a motion *in limine* to strike portions of the City of Berlin's (City's) rebuttal testimony, followed by a corrected motion filed on January 27, 2011. At the first day of hearing on this matter, the Commission took oral argument for and against the OCA's motion, and from the bench granted the motion to strike, except for pages 27, line 8 through page 32, line 8, which the Commission held in abeyance pending review of two underlying studies and arrangements to provide access thereto to all interested parties in the proceeding, with certain oral clarifications on the record.

At hearing, on January 26, 2011, the Commission heard an oral motion for rehearing by the City and arguments by other parties on the City's motion. In order to facilitate the orderly conduct of this proceeding, the Commission has resolved the issues presented. This secretarial letter will outline the Commission's decision, with more detailed analysis to follow in a final order in this matter.

Counsel for the City makes a number of arguments that fail to provide a sufficient basis for rehearing or establish that large portions of Mr. Sansoucy's January 18, 2011 testimony is properly within the scope of rebuttal. At the same time, the Commission has determined that portions of the testimony struck on January 24, 2011 can be construed to constructively rebut Staff or OCA testimony, and certainly could have been better framed by the City. In any event, in ruling on the pending motion for rehearing as well as the underlying motion to strike portions of the City's testimony, the Commission has focused on balancing the interests of fairness and due process to all parties with the interest of considering testimony that would assist the Commission's deliberations in this case.

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Accordingly, the Commission has exercised its discretion regarding evidentiary matters and determined it will grant in part and deny in part the City's motion for rehearing, as follows, with reference to lettered items in paragraph 12, pp. 5-6, of the OCA's Revised Motion *in limine* to Strike Rebuttal Testimony of George E. Sansoucy, P.E., filed on January 27, 2011:

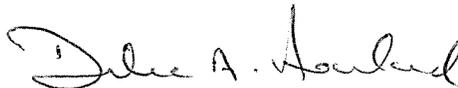
- (a) City's Exhibits 1-2 are struck
Exhibits 3-10 are allowed

City's rebuttal testimony:

- (b) p. 3 ln. 18 - p. 12 ln. 5 are struck
- (g) p. 34 ln 6 – 18 are struck
- (h) p. 34 ln. 20 – p. 35 ln. 12 are struck
- (i) p. 35 ln. 14 – p. 36 ln. 16 are struck

- (c) p. 12 ln. 7 – p. 17 ln. 2 are allowed
- (d) p. 17 ln.21 – p. 20 ln. 2 are allowed
- (e) p. 27 ln. 8 – p. 32 ln. 8 are allowed
- (f) p. 32 ln. 10 – p. 34 ln. 4 are allowed

Sincerely,



Debra A. Howland
Executive Director