

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

CITY OF BERLIN'S CLOSING STATEMENT

Commissioners, you have a unique opportunity to implement the statutory public policies of RSA 362-F in such a way as to restore financial stability to the North Country and to the City of Berlin (“the City”) by approving the Power Purchase Agreement (“PPA”) between PSNH and Laidlaw. The City respectfully requests that you take this opportunity to approve the PPA in a way that recognizes the significant protections to rate-payers contained in its terms so that the approved PPA remains financeable – for without financing, there is no deal.

Key to this Commission’s evaluation of all of the evidence presented to it over the last three weeks is the very purpose of RSA 362-F:1 as enacted by the General Court:

Renewable energy generation technologies can provide fuel diversity to the state and New England generation supply **through use of local renewable fuels and resources** that serve to displace and thereby lower regional dependence on fossil fuels. This has **the potential to lower and stabilize future energy costs by reducing exposure to rising and volatile fossil fuel prices**. The use of renewable energy technologies and fuels can **also help to keep energy and investment dollars in the state to benefit our own economy**. In addition, employing low emission forms of such technologies can reduce the amount of greenhouse gases, nitrogen oxides, and particulate matter emissions transported into New Hampshire and also generated in the state, thereby improving air quality and public health, and mitigating against the risks of climate change. **It is therefore in the public interest to stimulate investment in low emission renewable energy generation technologies in New England and, in particular, New Hampshire, whether at new or existing facilities.**

RSA 362-F:1 (emphasis added). The City argues that it is the use of the “local renewable fuels and resources” included in this PPA – namely the investment in the existing, unused 65+ MW Boiler and the local wood available basket as approved by the NH Site Evaluation Committee – that is the type of investment that is expressly stated to be “in the public interest” by this statute. Furthermore, as acknowledged by Staff Witness Frantz, it is the express public policy of this

State to support and promote sustainable and viable forest based economy via various statutory schemes. See, RSA 227-G:1; see also, RSA 227-I:1; RSA 227-J:1; and RSA 672:1, III (e).

Additionally, the approval of this PPA brings on-line a new, highly efficient and clean renewable generation resource that meets the heightened environmental strictures imposed on “eligible biomass technologies” under RSA 362-F:2, VIII (a). This is not something that the intervening IPP’s qualify for, which is why they are eligible for only Class III REC’s (save for a small percentage of the Alexandria IPP that does qualify for Class I REC’s via its recent small upgrade). To that end, the City respectfully requests that this Commission not be distracted by any arguments of the IPP’s against this PPA since those entities have had the last several years to bring their plants up to grade to qualify for Class I REC’s but have for the most part chosen not to do so. This PPA will result in a new, ultraclean, highly efficient, greenhouse gas-reducing plant that will cost-effectively install the new required pollution control devices – the very type of plant that the statutory scheme of RSA 362-F was designed to foster for the benefit of our State as a whole.

Of course, the North Country and the struggling City will also greatly benefit from approval of the PPA, which is necessary for this project to go forward. Approval of the PPA means the creation of jobs, an increased industrial tax base, the lessening of residential sewer/water rates, and the ability to take advantage of approximately three million dollars (\$3,000,000) in community benefits from New Market Tax Credits allocated to the project. This is an existing facility located in a former paper mill where most other buildings and equipment have been scrapped; and as Staff Witness McCluskey acknowledged, this site has various unique features that are not generally available to any other potential project, including: the existing, unused and maintained boiler at a reduced cost of up to \$100 million as compared to a brand new greenfields site; existing municipal water and sewer with sufficient capacity to handle the needs of this project; existing wood yards, scales and out-buildings on 60 acres of industrially zoned land with other such acreage adjacent; a site with such features adjacent to existing transmission facilities like the Coos Loop and existing roadways such as Route 2 and Route 16 that have long been used to accommodate the truck traffic necessary for transporting the wood to the site; and the availability of trained, skilled workforce with a long and illustrious history of service in the wood industry. The Commission’s approval of this PPA breathes life into the Laidlaw plant, which in turn generates value into the State, the North Country and the City– not only as a

renewable energy generator but also as a launching pad for additional businesses which can co-locate to this site (one of which was referenced generally in the news article admitted as PSNH Exhibit 10). The approval of this PPA allows this valuable site to be reused in order to meet our State current and future energy needs and long-term renewable energy goals while at the same time increasing available jobs in the North County (which causes a corresponding decrease in the welfare and related assistance payments needed in the area) and increasing tax revenues in the City and Coos County (which in turn results in similar increases in contributions to the State coffers in these times of tight budget crises). It is a win for the State, the City, and the ratepayers.

Staff and OCA witnesses would have this Commission believe that, based on numerous assumptions and speculations that were shown on cross examination to be not well founded, that there is a potential that the PPA could be over-market and could have a negative impact upon the rate payers over the course of the PPA's twenty-year term. However, this Commission need only look to Staff Exhibit 14 to see that the calculations of Staff's own witnesses prove that, depending upon which variables are used, the PPA could prove to be under-market by between \$336 million and \$391 million. As Staff Witness McCluskey acknowledged under cross examination, "nobody knows the future" and "the question is – what do you mean by 'accurate'". The City suggests that the testimony of Staff and OCA witnesses concerning wind-based projects and projections are not accurate for consideration of this wood-based PPA, which fixes the energy, capacity and REC prices to be generated by this highly reliable project in such a way that could generate not only much needed energy, capacity and REC's, but also between \$336 million and \$391 million in savings to rate payers.

Additionally, the testimony of Staff and OCA witnesses gives too little weight to the significant differences between a wood facility and a wind facility. As was shown in the cross examination of Staff Witness McCluskey, the Ventyx REC prices are based upon wind facilities and these prices cannot be compared to wood facilities. Wind generated electricity is much less stable and reliable than electricity generated by wood facilities due in part to the significant changes in wind speed at any given hour and in the difference in type of electricity generated, i.e., inductive power vs. the more standard asynchronous power. Due to the volatility of wind, it is necessary, as Staff Witness Frantz recognized, for any wind facility to have a back-up fossil fuel source of capacity – a back-up source that is not necessary with a wood facility such as the

one established in the PPA. This also means that a wind facility does not have the guaranteed capacity that a wood facility has – namely, 100% of the nameplate capacity as determined by ISO for wood as compared to 10% of the nameplate capacity as determined by ISO for wind. Therefore, to achieve the maximum of 67.5 megawatts of capacity that could be generated by Laidlaw, 675 megawatts of wind would need to be produced, which, as Staff Witnesses McCluskey and Frantz acknowledged, equates to approximately 300 to 350 wind towers. Accordingly, Staff’s REC price calculations based upon Ventyx’s wind numbers simply cannot be transposed without accounting for the above differences.

Furthermore, it became apparent on cross examination that Staff Witness McCluskey also based his testimony and calculations upon his assumption that there is a low probability of carbon legislation for the term of this PPA. Yet the 2010 Ventyx report (Staff Exh. 12C) says only that carbon legislation is not expected in the next two years and Mr. McCluskey ignored the fact that the Ventyx report contained an alternative model with carbon, labeled “Fall 2010 Federal Environmental Legislation Case”. See, Staff Exh. 12C, pg. ES-1. Mr. McCluskey’s analysis ignores the fact that the term of the PPA would not even begin until 2014 – a date by which carbon legislation could well be revived. Mr. McCluskey further based his calculations upon his interpretation that the Production Tax Credit (“PTC”) of 2.1 cents per kilowatt hour is included in the Ventyx REC prices – despite Ventyx’s clear methodology that shows the PTC is not included in the forecasted REC prices. See, Staff Exh. 12C, pgs. R-12 – R-13. Mr. McCluskey, therefore, did not account for this additional source of revenue equal to \$21 per REC (one megawatt hour). Had he properly done so, then Mr. McCluskey’s use of the numbers from the “Northeast” column of the Ventyx REC prices contained in Table 5-1 (Staff Exh. 12C, pg. R-14) should be \$21 higher for each entry and consistent with Mr. Sansoucy’s testimony that the Ventyx figures are consistent with the REC prices in the PPA. Mr. McCluskey’s calculations also failed to recognize that the numbers in Ventyx Table 5-1 were in 2010 dollars without any factoring for inflation. The City asserts that had these calculations been properly adjusted, they would have agreed with Mr. Sansoucy’s testimony that the Ventyx figures are almost identical to the REC prices contained in the PPA. Mr. McCluskey’s analysis of REC prices also ignored the testimony of OCA Witness Traum that current REC auction prices had increased at a rate of 43.6% from 2010 to 2011 (See, KET Exh. 5 contained in OCA 1P) or that such figures for 2011 are approximately the same percentage above that shown for 2011 in Ventyx Table 5-1.

Further, Staff and OCA witnesses all apparently failed to take into account upcoming retirements of existing fossil fuel power plants as reflected in Mr. Sansoucy's rebuttal exhibits 3, 4 and 4A (all contained in City of Berlin GES-3). Instead, these witnesses apparently assumed that Ventyx had already taken this into account; but there is no testimony explaining where, if anywhere, this is contained in the Ventyx report.

Additionally, the Ventyx Report confirms that more renewable capacity will be needed as energy needs increase and Renewal Portfolio Standards ("RPS") requirements are imposed in the various states. Ventyx suggests that demand requirements will result in increased energy and capacity prices creating a decline in future REC prices, as the influence of increased gas and oil prices are felt in the energy markets. See, Staff Exh. 12C, pg. 5-13. There can be little dispute that oil and gas prices are likely to increase in the future from their relatively low level caused by the current "Great Recession". Further, as Mr. Sansoucy testified in his rebuttal, the market price of capacity is suppressed due to this recession and it is likely that New England will exceed its required capacity reserves by 2014 to 2015. City of Berlin GES – 3, pgs. 12-13. Accordingly, new capacity will be needed as our economy rebounds from this recession.

The City asserts that this PPA will meet the capacity needs of our State at the very time such capacity will be needed by our recovering business and industries. Furthermore, this PPA fixes the energy, capacity and REC prices at levels that could well prove to be below market, while also reducing fuel and energy price volatility for PSNH energy service customers. Additionally, the City notes that Staff and OCA ignore the fact that there will undoubtedly be a negative effect on the rate payers if the PPA is not approved. Without the Laidlaw plant, the supply of Class I RECs was shown by Mr. Long and Mr. Sansoucy to be insufficient to satisfy PSNH's statutory requirements resulting in PSNH paying the Alternative Compliance Payment ("ACP") – payments that are made without any corresponding generation of energy or capacity. Additionally, without this clean and highly efficient wood-burning plant, PSNH will have to obtain ever-increasing amounts of energy and capacity in the unstable and increasingly costly fossil fuel markets. As was clearly shown under the cross examination of Staff Witnesses McCluskey and Frantz, however much they may desire wind-projects, those projects do not have the reliability or job creation of this wood-based PPA; and, as noted above, wind-projects require fossil fuel plants to serve as back-up generators for capacity – whether in times of no wind or in times of too much wind, or when a sudden wind drop-off shuts down the turbines and causes

destabilization of the grids. All of these facts will lead to higher rates if this PPA is not approved.

In sum, while reasonable minds may disagree about whether this PPA reaches a level of perfection with regard to energy, capacity and REC pricing, the fact remains that no PPA will be ever perfect. That could be why the statutory charge to this Commission is that “[i]n determining the public interest, the commission shall find that the proposal is, on balance, substantially consistent” with the various factors listed in RSA 362-F:9, II. Perfection is not mandated or even suggested by such language. This PPA is before the Commission at a crucial time in the history of the City of Berlin, the North Country and our State. This Commission can and should approve the PPA as presented (or if conditions are deemed needed, then with the conditions proposed in PSNH Exh. 9, rev. 1) so that this project can remain financeable. Restore jobs to this community and the local wood basket and fulfill the statutory directive of RSA 362-F for clean, local, renewable energy generation and investment in our State. The City respectfully requests that the Commission approve this PPA; and we thank you for your time and patience throughout this proceeding.

Respectfully submitted,
THE CITY OF BERLIN

By its attorneys:
DONAHUE, TUCKER & CIANDELLA, PLLC

Date: 14 February 2011

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CERTIFICATE OF SERVICE

Pursuant to Rules Puc 203.02(2) and Puc 203.11, I hereby certify that on this 14th day of February 2011, I served copies of this Closing Statement via email to those parties listed on the Service List and to the Office of Consumer Advocate.

/s/ Keriann Roman
Keriann Roman, Esq.