

STATE OF NEW HAMPSHIRE

before the

PUBLIC UTILITIES COMMISSION

DE 10-195

Petition for Approval of Power Purchase Agreement with
Laidlaw Berlin BioPower, LLC

MOTION FOR CONFIDENTIAL TREATMENT

January 17, 2011

NOW COMES Concord Steam Corporation (“Concord Steam”) and moves for confidential treatment of confidential financial information pursuant to Rule Puc 203.08 and in support hereof states as follows:

1. Puc Rule 203.08 provides that:
 - (a) The commission shall upon motion issue a protective order providing for the confidential treatment of 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 based upon the information submitted pursuant to (b) below.
 - (b) A motion for confidential treatment submitted pursuant to this rule shall contain:
 - (1) The documents, specific portions of documents, or a detailed description of the types of information for which confidentiality is sought;
 - (2) Specific reference to the statutory or common law support for confidentiality; and
 - (3) A detailed statement of the harm that would result from disclosure and any other facts relevant to the request for confidential treatment.
2. PSNH Data Request 9 requests that Concord Steam witness John Dalton provide “all contracts, agreements, or other arrangements that Concord Steam Corporation has to sell energy, capacity or RECs from [its] proposed new facility”.

3. Concord Steam has objected to this request because it asks for competitive financial information that is not the proper subject of data requests. Furthermore, the “proposed new facility” and related financial data are the property of Concord Power & Steam, LLC (“Concord Power”), that is not a party to this proceeding,¹ that has contracted to provide steam to Concord Steam Corporation under an agreement approved by the Commission. *See* Order No. 24,969.
4. However, without waiving its objections, in order to respond to PSNH’s requests, Concord Steam has obtained permission to provide a Power Purchase Agreement dated January 3, 2011, between Concord Power and a third-party power supplier in New Hampshire (the “Concord Power PPA”) subject to a motion for confidential treatment.
5. Accordingly, Concord Steam files this motion for confidential treatment together with a copy of Mr. Dalton’s amended response to PSNH Data Request No. 9. Mr. Dalton’s amended response includes a confidential analysis of the pricing of the Concord Power PPA compared to the Laidaw PPA pricing.
6. Concord Steam provides a redacted “public” copy of Mr. Dalton’s response that does not include the Concord Power PPA or his analysis of its pricing terms. However, without waiving confidentiality, the redacted public response concludes that the Concord Power PPA is “consistent” with the Term Sheet previously included with Mr. Dalton’s testimony.
7. *Statutory and Common Law Support for Confidentiality.* The Commission’s regulations require “[s]pecific reference to the statutory or common law support

¹ Under the Commission’s procedural rules, data requests may only be served on a party to a proceeding. Puc 203.09 (b).

for confidentiality.” Puc 203.08 (b). The Concord Power PPA contains confidential energy, capacity and REC pricing information from Concord Power’s proposed facility, and the prices paid by the counter-party to the Concord Power PPA. This information is confidential financial information within the meaning of RSA 91-A:5 that protects “confidential, commercial, or financial information” from disclosure. *See generally*, Order No. 25,174.

7. Concord Power PPA is negotiating or finalizing other agreements to allow the project to move forward. As a result, the terms and in particular the pricing terms of the Concord Power PPA are therefore of the ***highest order of commercially sensitive information*** exempted from disclosure under RSA 91-A:5
8. *Detailed statement of the harm that would result from disclosure.* The harm that would result from disclosure includes, but is not limited to the following:
 - a. *Pricing Terms.* Any competitor that obtained the Concord Power PPA, including PSNH, the Wood IPPs or others, could use that information to make a competing offer or bid to any entity with whom Concord Power is currently negotiating, or seeking to negotiate in the future. Disclosure of this information would have an adverse impact on Concord Power’s ability to compete in the market for generating services.
 - b. *Identity.* The counter-party to the Concord Power PPA is not required by law to seek Commission approval. *Cf.* RSA 362-F:9. Unless and until its identity is disclosed, this information is confidential and its disclosure would violate the Concord Power PPA.

- c. *Other terms.* The other terms of the Concord Power PPA are also confidential by their nature and subject to confidentiality provisions. Knowledge of their terms could be used to assist the preparation of competitive offers. The relevance of these provisions is in any case so remote that no public interest favors their disclosure.

WHEREFORE, Concord Steam respectfully requests that the Commission:

- A. Grant this Motion for Confidential Treatment;
- B. Issue a Protective Order affording confidential treatment pursuant to Puc 203.08; and
- C. Grant such other relief as justice may require.

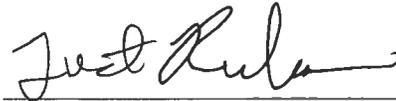
Respectfully submitted,

CONCORD STEAM CORPORATION,

By its Attorneys,

UPTON & HATFIELD, LLP

Date: January 17, 2011



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CERTIFICATE OF SERVICE

I hereby certify that on this day, a copy of the foregoing was forwarded to all counsel or parties of record for discovery in this proceeding by Electronic Mail.



Justin C. Richardson