

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 TO DESIGNATE STAFF ADVOCATE

NOW COMES the City of Berlin, (“the City”), by and through its attorneys, Donahue, Tucker and Ciandella, PLLC, and, pursuant to RSA 363:32, I, respectfully moves that the New Hampshire Public Utilities Commission (“the Commission”) designate Staff member George McCluskey as staff advocate in the above-captioned matter. In support thereof, the City states as follows:

1. An expedited hearing on this matter is scheduled for January 24 and 25 2011.
2. In this matter, Public Service Company of New Hampshire (“PSNH”) has petitioned the PUC for approval of a power purchase agreement (“PPA”) between PSNH and Laidlaw Berlin BioPower, LLC.
3. The City supports the PPA because it is likely to result in the creation of jobs, an increased tax base, 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.
4. On December 17, 2011 Commission Staff member George McCluskey prefiled testimony which took a strong position against virtually every aspect of the PPA as proposed, including, inter alia, the level of risk on ratepayers, the cumulative reduction fund provision, the energy and capacity prices, the renewable energy certificate (“REC”)

prices, and the number of RECs that can be purchased, among others. Mr. McCluskey included recommendations in his testimony that approval of the PPA be conditioned upon changing these aspects of the PPA.

5. It is apparent that the issues in this docket, particularly with regard to those delineated above, are extremely contentious and that Mr. McCluskey continues to maintain his strong position against the terms of the proposed PPA.
6. If accepted, Mr. McCluskey's conditions, if implemented, will have a significant impact upon the financeability of the project and likely prevent financing and kill the project.
7. This will have a significant detrimental impact upon the City.
8. RSA 363:32 requires the Commission to designate a staff member as a staff advocate, "if requested by a party with full rights of participation in the proceeding" where "such member[] of its staff may not be able to fairly and neutrally advise the commission on all positions advanced in the proceeding." RSA 363:32, I.
9. The City is an intervenor in this matter with full rights of participation.
10. Mr. McCluskey's testimony demonstrates that he has taken a position against the PPA as proposed such that the City feels he will not be able to "fairly and neutrally advise the commission" on the above-named matter.
11. Although the hearing for this matter is set for January 24 and 25, the City believes that the relief requested herein need not delay or otherwise prejudice the proceeding's procedural schedule.
12. The City requests that the hearing continue as scheduled.

WHEREFORE, the City respectfully requests that the Commission:

- A. Designate Staff member George McCluskey as staff advocate under RSA 363:32;
and
- B. Grant such other and further relief as the Commission deems just and equitable.

Respectfully submitted,

THE CITY OF BERLIN

By its attorneys:

DONAHUE, TUCKER & CIANDELLA, PLLC

Date: 20 January 2011

By: /s/ Keriann Roman
Robert D. Ciandella, Esq.
Christopher L. Boldt, Esq.
Keriann Roman, Esq.
225 Water Street
Exeter, NH 03833
(603) 778-0686

CERTIFICATE OF SERVICE

Pursuant to Rules Puc 203.02(2) and Puc 203.11, I hereby certify that on this 20th day of January 2011, I served copies of this Motion to those parties listed on the Service List and to the Office of Consumer Advocate.

/s/ Keriann Roman
Keriann Roman, Esq.