

NHPUC MAY18'11 AM10:02

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION
DE 10-195
PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
Petition for Approval of Purchased Power Agreement with Laidlaw Berlin
BioPower, LLC
LLC
Order Granting Conditional Approval

Edrest Properties LLC Motion for Rehearing

May 17, 2011



Pursuant to RSA 541:3 and N.H. Code Admin. Rules Puc § 203.33, Edrest Properties LLC of

New Hampshire hereby requests rehearing of Order No. 25,213 dated April 18, 2011. In particular, Edrest Properties LLC requests that the Commission reconsider its conditional approval of the PPA between PSNH and Laidlaw Berlin BioPower, LLC ("LBB") dated April 18, 2011. Under RSA 541:3, the Commission may grant rehearing or reconsideration when the motion states good reason for such relief.

In support hereof, Edrest Properties says as follows:

- 1. Significant changes to the ownership structure and fuel supplier have occurred since the PPA was conditionally approved by the PUC that can significantly impact whether the PPA is in the public interest.***
- 2. Pursuant to RSA 162-H:11, decisions of the Committee are reviewable in accordance with RSA 541:3. Under RSA 541:3, any party to the action or proceeding before the Committee, or any person directly affected thereby, may apply for a rehearing in respect to any matter determined in the action or proceeding, or covered or included in the order..."***
- 3. Edrest Properties can be directly impacted by the decision of this committee by properties owned and managed within close proximity to the facility.***
- 4. The NH SEC, due to significant changes within the ownership structure and fuel supplier have issued a new docket number for this application and are currently moving through adjudatory process. The PUC should consider the same process as a legal right of the rate payer.***
- 5. RSA 541-A:31, in pertinent part, requires adjudicative proceedings when a matter is considered a "contested case." See RSA 541-A:31 (1997 & Supp. 2001). "Contested case" is defined as "a proceeding in which the legal rights, duties, or privileges of a party are required by law to be determined by an agency after notice and an***

opportunity for hearing." RSA 541-A:1, IV (Supp. 2001). As RSA 378:18 governs special contracts for service, the language contained therein determines whether there is here a contested case for which an adjudicatory proceeding is required.

6. Edrest Properties LLC contends that the PUC's decision to approve the amended special contract without the benefit of an adjudicatory hearing pertinent to the changes in ownership structure and fuel supplier is a violation of due process under both the Federal and State Constitutions. See State v. Cannuli, 143 N.H. 149, 151 (1998). Because Part I, Article 15 of the New Hampshire Constitution is at least as protective of the ratepayers' rights as the Due Process Clause of the Fourteenth Amendment, cf. Knowles v. Warden, N.H. State Prison, 140 N.H. 387, 389 (1995), we do not engage in a separate federal analysis. See State v. Ball, 124 N.H. 226, 232 (1983).

7. There has been considerable debate over the authority of the commission to rule on this PPA after year 2025, Commissioner Below specifically making note of this concern in this very order.

8. To date, no one other than Edrest Properties has concentrated on the impact this PPA can have on broadening the 35% depreciation zone impacting the entire value base within the city of Berlin that offsets the economic benefit derived from the PPA. Edrest Properties LLC contends that potential wood monopolization due to the new fuel supplier and related wood cost increase brings into potential jeopardy thousands of jobs and massive tax revenue risk within six towns between New Hampshire and Maine. It is no secret that all north country existing biomass facilities have been included in this docket as intervenors. Most recently, the NH SEC has received an email from New Page in Rumford Maine voicing significant concern over increased competition that in Edrest Properties' opinion goes beyond free trade through pass through costs to the rate payer.

9. The companies, PSNH and Laidlaw Berlin Biopower/ Berlin Station, involved with the PPA would essentially be rewarded with a renewable energy project that can bring into the equation price escalation that can negate forward progression of the 25% renewable initiative prior to 2025 by forcing significant risk onto already established northern NH biomass facilities and their host towns and cities, not due to fair trade, but due to pass through costs to the ratepayer. RPS statutes include Class III source generation facilities that began operation on or before January 1, 2006 and produce electricity from eligible biomass technologies having a gross nameplate capacity of 25 megawatts or less or methane gas facilities. the total RPS obligation 13.8% for 2015. There is significant time to rehear the potential impacts of recent changes made in both ownership and fuel provider structures prior to year 2015's goal of 13.8% renewable derived energy production.

10. Carrier facilities in both Brentwood and Henniker and particularly Brentwood create potential competition for PSNH's Schiller station. There is valid reason to be concerned that incentives exist for wood price escalation that could significantly risk substantial job base and

tax revenue to all of NH and western Maine based on rate payer pass through costs disguised as free trade.

Respectfully

Edrest Properties LLC

Jonathan Edwards

Member