

**Leighton, Adele**

**From:** Ross, F. Anne  
**Sent:** Monday, August 17, 2009 12:48 PM  
**To:** Leighton, Adele  
**Subject:** FW: Docket #DE09-067



F. Anne Ross, Esq.  
General Counsel  
New Hampshire Public Utilities Commission  
21 S. Fruit Street, Suite 10  
Concord, New Hampshire 03301  
603-271-6005

THIS TRANSMITTAL AND ATTACHED ACCOMPANYING DOCUMENTS (if any) IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL, PROPRIETARY, AND/OR EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. If the reader of this message is not the intended recipient, or an employee or agent who is responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication, in any manner or form, is strictly prohibited. If you have received this communication in error, please notify us immediately. Thank you for your assistance.

-----Original Message-----

**From:** Smith, Kim **On Behalf Of** PUC  
**Sent:** Thursday, August 06, 2009 8:24 AM  
**To:** Howland, Debra; Ross, F. Anne; Damon, Edward  
**Subject:** FW: Docket #DE09-067

I have attached an internet e-mail from our PUC account. It's a follow-up from a prior e-mail.

--Kim

-----Original Message-----

**From:** cinjon4@myfairpoint.net [mailto:cinjon4@myfairpoint.net]  
**Sent:** Thursday, August 06, 2009 6:16 AM  
**To:** PUC  
**Subject:** Docket #DE09-067

I had emailed the NH PUC pertinent to the above referenced docket a few days back and haven't received any communication. Not sure you received the email, but I'm wondering how a group of ratepayers would go about intervening on the potential of increased rates. I'm enclosing my email of a few days back pertinent to Docket # DE09-067. Thanks for your response to this. Jonathan Edwards

To the NH PUC,

As a citizen of Berlin, I am very much in favor of appropriately sized and positioned biomass facilities in the State of NH to assist in the governor's 2025 initiative. I've noticed in 2009 that out of 62 dockets filed with the PUC up to the middle of April, all have been closed with an exception of very few, one being the Clean Power complaint against PSNH. It has been 3.5 months since the secretary of the PUC's has responded to this complaint. Having noticed the commission seems to move quickly through these dockets I'm wondering why this one, in particular, seems to be taking up substantially more of your time? Additionally, I'm wondering if the commission could respond to some concerns many of us in Berlin have as follows:

8/17/2009

Below some questions I have, and for quick reference on your part, is the NY court's determination on the "very small Laidlaw Ellicottville biomass proposal" that was no where near the size of Laidlaw's proposal in Berlin. As a result of this court decision, I have some concerns that I'm hoping you can provide information on how your process will handle them.

1. Based on some major liquidation practices that have taken place in Berlin that have impacted concern pertinent to sustainability of the area's #1 resource (wood) what plans do you think Laidlaw should have to plant trees, what types and how many on an annual basis? How much land should they secure to do so?

2. Based on Laidlaw's failure to put together a sustainable agricultural management program in New York that caused the NY supreme court to deny the company's site plan review, what type of management program should they have in Coos County?

3. With trucks having to drive significantly away from the mill, how can the mill provide carbon neutral status to obtain RECs?

4. Because the NY supreme court found that Laidlaw's little New York proposal "will have unavoidable adverse impacts on the community at unacceptable levels; is inconsistent with and will have a negative impact on the neighborhood character; presents a use inconsistent with the goals of the community as stated in the Town Comprehensive Plan and Zoning Ordinance; will create unacceptable noise levels; and significant air pollution emissions; all of which are significant, unmitigable environmental detriments; and therefore, for each of these reasons individually and collectively, as well as the others stated in this Statement of Findings and Decision, the Site Plan is denied.", how can Laidlaw avoid all of these concerns with a plant immensely larger than the Ellicottville proposal directly in the middle of the city of Berlin?

Thanks, in advance, for any information you can provide.

Respectfully,

Jonathan Edwards (Berlin NH)

#### "New York Court Says SEQRA Review Properly Considered Impacts of Greenhouse Gases

New York's Appellate Division (Fourth Department) issued a decision in early February, 2009 upholding a denial by the Town of Ellicottville of site plan and special permit approval to construct a cogeneration plant using wood chips as fuel, as part of a larger development proposal. In *Matter of Laidlaw Energy and Environmental Inc. v Town of Ellicottville*, the court found that the conclusion contained in the New York State Environmental Quality Review Act (SEQRA) findings that "serious increases in harmful emissions" from the plant would result in an "unacceptable adverse impact" was not arbitrary and should be upheld.

In what appears to be one of, if not, the first decision in New York to deny a land use approval due to concern over carbon emissions, the court has found that this is a proper consideration under SEQRA. Unfortunately, the decision goes into little detail about the findings or the issues posed. However, thanks to Daniel Spitzer, Esq. the partner at Hodgson Russ LLP, who successfully defended the decision, we were able to obtain a copy of the

Town's detailed SEQRA findings.

The findings focused on a number of issues but Greenhouse Gases (GHGs) and Carbon Dioxide were a focus in the analysis of the cogeneration plant, noting in part: "the issue of carbon neutrality is far more complicated, and while biomass plants can be carbon neutral, the Laidlaw proposal is neither carbon neutral when viewed locally or regionally, because the Laidlaw proposal is not coupled with a sustainable agricultural management program..Laidlaw is not planting new trees to take up the carbon. It is burning the dead or trimmed mature trees, meaning the fuel source will not absorb the carbon released in equal portions." The findings also discuss attempts to have Laidlaw put together a sustainable agricultural management program in conjunction with the plant and the refusal of Laidlaw to implement such a plan.

The findings also reviewed related impacts: "proponents for sustainable biomass plants note the importance of local fuel sources. Here, where the travel routes are up to 100 miles, the carbon dioxide released by the transporting trucks unbalances the equation, even if the facility were otherwise carbon neutral. Conservatively estimating that each truckload will come from an average distance of 50 miles away, it is expected each truck delivering chips will travel 100 miles roundtrip per delivery. Using an average fuel economy of 5 miles per gallon of diesel fuel, each delivery of chips would require the burning of 20 gallons of diesel fuel. Based on EPA estimates. Some of this will occur in Ellicottville, and all will occur in the region. Thus, Laidlaw's project is not carbon neutral on a regional level, and because it will concentrate in Ellicottville carbon sequestered over a large area, it is not neutral on a local level."

## Leighton, Adele

---

**From:** Ross, F. Anne  
**Sent:** Monday, August 17, 2009 12:48 PM  
**To:** 'cinjon4@myfairpoint.net'  
**Cc:** Leighton, Adele  
**Subject:** Clean Power Complaint 09-067

Dear Mr. Edward,

We have received your comment in this docket and it will be entered in the docket book. You will be placed on the interested party list to receive any future Commission orders in this matter. Thank you for taking the time to let us know your concerns.

F. Anne Ross, Esq.  
General Counsel  
New Hampshire Public Utilities Commission  
21 S. Fruit Street, Suite 10  
Concord, New Hampshire 03301  
603-271-6005

THIS TRANSMITTAL AND ATTACHED ACCOMPANYING DOCUMENTS (if any) IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL, PROPRIETARY, AND/OR EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. If the reader of this message is not the intended recipient, or an employee or agent who is responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication, in any manner or form, is strictly prohibited. If you have received this communication in error, please notify us immediately. Thank you for your assistance.

8/17/2009