



**Public Service
of New Hampshire**

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A Northeast Utilities Company

Robert A. Bersak
Assistant Secretary and
Assistant General Counsel

May 18, 2011

Ms. Debra A. Howland
Executive Director and Secretary
New Hampshire Public Utilities Commission
21 S. Fruit Street, Suite 10
Concord, New Hampshire 03301



**Re: *Petition for Approval of Power Purchase Agreement between
Public Service Company of New Hampshire and
Laidlaw Berlin BioPower, LLC***

Dear Secretary Howland:

On April 18, 2011, the Commission issued Order No. 25,213, "Order Granting Conditional Approval," (the "Order") in this proceeding. In the Order, the Commission ruled "that, the PPA is approved on the condition that PSNH files a revised PPA complying with the terms set forth herein within 30 days of this order." Enclosed for filing, please find copies of such an "Amended and Restated Power Purchase Agreement" complying with the terms set forth in Order No. 25,213.

In addition to the revised PPA, PSNH is supplying a blacklined version of the document indicating the changes that were made to the original PPA. These changes were kept to the minimum required (i) to comply with the terms set forth in Order No. 25,213; (ii) to properly reflect the current parties involved in the development of the project as set forth in the filing being considered by the Site Evaluation Committee ("NHSEC") in its Docket No. 2011-01; and, (iii) to correct minor spelling and numbering errors contained in the original PPA.

The material changes to the document, are as follows:

- In the preamble, Berlin Station, LLC was included as a party to the PPA. As noted in the "Joint Motion of Laidlaw Berlin Biopower, LLC and Berlin Station, LLC for Transfer and Amendment of the Certificate of Site and Facility, and Notice of Change in Major Contractor" filed with the NHSEC on March 9, 2011, Berlin Station will own the facility, the real property, be the party to all the contracts (PPA, fuel supply, EPC, O&M, etc.) and the Certificate holder.

- New Section 1.3. A definition of “Adjustment Percentage” was included as part of the implementation of the Order’s caps for purchase under the PPA pricing of 500,000 MWhs/year for energy and 400,000 RECs/year. Unless the “In-Service Date” of the Facility happens to occur on the first day of a calendar month, the first “Operating Year” will also include the days in the prior month on and after the In-Service Date. The “Adjustment Percentage” is used to adjust the energy and REC purchase caps to account for an initial Operating Year that may exceed 365 days.
- New Section 1.5. A definition of “Average LMP Price” was included as part of the implementation of the Order’s caps for purchase under the PPA pricing of 500,000 MWhs/year for energy.
- Section 6.1.2 (b), Capacity pricing, was amended to comply with the terms set forth in the Order.
- Section 6.1.2 (c), REC pricing, was amended to comply with the terms set forth in the Order.
- New Section 6.1.3. This new section implements the Order’s caps for purchase under the PPA pricing of 500,000 MWhs/year for energy and 400,000 RECs/year.
 - RECs: PSNH shall not be obligated to purchase by reason of this Agreement in excess of 400,000 NH Class I RECs (with such figure for the first Operating Year multiplied by the Adjustment Percentage). Any NH Class I RECs produced by the Facility and not delivered to PSNH hereunder may be sold by Seller under other arrangements.
 - Energy: PPA pricing will apply to no more than 500,000 MWhs of energy per year. Any additional energy produced by the Facility will be priced at the “Average LMP Price,” thus making PSNH’s customers indifferent to such purchases. The design of this provision is intended to ensure that both the Facility owners and PSNH’s customers are treated fairly and equitably under the PPA, with no possibility of “gaming” purchases or plant operations to favor one party over the other. For example, if the contract language specified that purchases by PSNH ceased entirely once the 500,000 MWh sales cap was reached, the developer would have the theoretical opportunity to adjust the timing of the Facility’s In-Service Date to just after the winter or summer peak periods. That would maximize energy sales to PSNH during lower cost spring and fall periods to the detriment of PSNH’s customers and allow the developer to benefit by selling any generation in excess of the 500,000 MWh cap to the market at the end of an “Operating Year” which would occur during a high cost winter or summer period.
- Revised Section 6.1.4. This section implements the Order’s requirement that caps the “Cumulative Reduction” amount on a cumulative annual basis at \$100 million, and, to the extent that the accumulated account exceeds \$100 million in any year, the overage will be credited to PSNH in the following year.
- Section 8.1. The words “amend or terminate other Product sales arrangements for NH Class I RECs” were included to account for sales of RECs that might be made to third-parties as a result of the Order’s 400,000 RECs/year cap on purchases by PSNH.

- New Section 17.5. This new section evidences PSNH's written consent of the assignment of the original PPA by Laidlaw Berlin Biopower, LLC to Berlin Station, LLC.
- Revised Section 24.1. This revision implements the Order's requirement that the PPA be revised to add a provision that expressly recognizes the Commission's retention of traditional regulatory authority regarding material discretionary actions to be taken by PSNH in performing under the PPA.
- Appendix B, "Form of Purchase Option Agreement," was amended to include Burgess Biopower, LLC as a party. As noted in the "Joint Motion of Laidlaw Berlin Biopower, LLC and Berlin Station, LLC for Transfer and Amendment of the Certificate of Site and Facility, and Notice of Change in Major Contractor" filed with the NHSEC on March 9, 2011, "Berlin Station will lease the facility to Burgess BioPower, LLC (Burgess) pursuant to a site and facility lease (the 'Facility Lease'). Berlin Station will also enter into a 'Right of Use Agreement' with Burgess pursuant to which Burgess shall have the right to use the contracts required to operate the Project (PPA, fuel supply, EPC, O&M, etc). Burgess will administer the Certificate and the contracts, and function as the facility manager on behalf of Berlin Station, subject to the terms of the Facility Lease and Right of Use Agreement." This arrangement is intended to comply with "New Market Tax Credit" requirements as described in the "Testimony of Keith Mueller on Behalf of Laidlaw Berlin Biopower, LLC and Berlin Station, LLC" filed with the NHSEC on March 9, 2011.

PSNH expresses its gratitude to the Commission, Commission Staff, the Office of Consumer Advocate, the parties in Docket No. DE 10-195, and to its negotiating partner(s) at Laidlaw Berlin Biopower, LLC ("LBB") and Berlin Station, LLC, for their cooperation and civility during this complex proceeding.

If you have any questions, please let me know.

Sincerely,



Robert A. Bersak
Assistant Secretary and
Assistant General Counsel

cc: Service List

SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED

Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.

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Docket #: 10-195-1

FILING INSTRUCTIONS:

a) Pursuant to N.H. Admin Rule Puc 203.02 (a), with the exception of Discovery, file 7 copies, as well as an electronic copy, of all documents including cover letter with:

DEBRA A HOWLAND
EXEC DIRECTOR & SECRETARY
NHPUC
21 S. FRUIT ST, SUITE 10
CONCORD NH 03301-2429

b) Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.

c) Serve a written copy on each person on the service list not able to receive electronic mail.