

STATE OF NEW HAMPSHIRE
BEFORE THE
NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

In re: Petition for Approval of Power Purchase Agreement) Docket No. DE 10-195
with Laidlaw Berlin BioPower, LLC)

WOOD-FIRED IPPS' MOTION TO COMPEL

Bridgewater Power Company, L.P., Pinetree Power, Inc., Pinetree Power-Tamworth, Inc., Springfield Power LLC, DG Whitefield, LLC d/b/a Whitefield Power & Light Company, and Indeck Energy-Alexandria, LLC (collectively, the "Wood-Fired IPPs") hereby move the Commission to order Laidlaw Berlin Biopower, LLC ("Laidlaw") to provide full and complete responses to the Wood-Fired IPPs' first and second set of data requests as follows:

STATEMENT OF FACTS

1. Laidlaw is the contract counterparty to the Power Purchase Agreement ("PPA") and one of the contract counterparties to the form of purchase option agreement ("POA") for which Public Service Company of New Hampshire ("PSNH") has sought approval in this proceeding. Laidlaw filed a petition for intervention and motion for expedited consideration, and was permitted to intervene with full party status.

2. At the prehearing conference held in this proceeding on September 29, 2010, counsel for Laidlaw confirmed on the record that Laidlaw "would certainly be prepared to respond to discovery requests, consistent with what we understand the scope of the proceeding to be." In a subsequent exchange, Commission Chairman Getz emphasized that "Laidlaw is the counterparty to the contract that they're asking to be approved. So, it's a little different than your typical intervenor - intervenor status. So, I think, obviously, there will be issues of relevance in the normal scope of discovery. But I guess I would say, at this point, let's see where the

discovery goes and how we need to deal with it, if it looks like it's going beyond the bounds of what's reasonable under the circumstances.” In response, Laidlaw’s counsel stated that “we would not object - we would not assert a blanket objection to discovery requests directed at Laidlaw.” Transcript, 9/29/10, pp. 110-111.

3. On October 13, 2010, the Wood-Fired IPPs, as intervenors granted full party status in this proceeding, issued a first set of data requests to Laidlaw requesting copies of its responses to the data requests of all other parties, the Commission staff, and the Office of Consumer Advocate (“OCA”), “said requests being incorporated herein by reference as if fully set forth herein.” IPP 1-1.

4. On October 20, 2010, the Wood-Fired IPPs issued a second set of 46 data requests to Laidlaw requesting data, documents, information and responses regarding issues relevant to the consideration of the PPA and the POA, including numerous questions addressing Laidlaw, its affiliates, proposed operations and financing, output, wood fuel procurement and consumption, the PPA and POA and their development and execution, and Laidlaw’s analysis of the costs and benefits of the proposed PPA and POA. Copies of the data requests included in this second set, with Laidlaw’s responses thereto, are appended to this motion as Exhibit A.

5. On October 19, 2010, Laidlaw responded to the Wood-Fired IPPs’ first set of data requests. In response to IPP 1-1, Laidlaw indicated it would provide to the Wood-Fired IPPs copies of “all such non-confidential data requests, subject to all objections made in such requests.”

6. On October 25, 2010, Laidlaw responded to the Wood-Fired IPPs’ second set of data requests. Laidlaw provided an answer to one of the 46 data requests (IPP LBB 2-30). Laidlaw objected to each of the other 45 data requests in identical language, as follows:

Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F: 10, II. Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding various market or other information has no bearing on that question.

The Commission has previously ruled that an intervenor who has not filed testimony is not subject to discovery. *Re Public Service Company of New Hampshire*, 89 NH PUC 226 (2004). Laidlaw has not filed any testimony but nevertheless has agreed to provide some information voluntarily, subject to being "within the bounds of what is reasonable under the circumstances." *See* September 29, 2010 Prehearing Transcript at 111. This request does not meet that criteria. In this case, subjecting LLB to the type of expansive, burdensome and irrelevant discovery requests that have been propounded by other intervenors whose stated concern is their competitive position would subvert the Commission's process and not further the analysis that the Commission is statutorily charged with undertaking. The Commission is fully capable conducting that assessment through the analysis performed by its own staff and can, where it determines appropriate, pursue issues identified by any of the intervenors. LBB has worked closely with staff to address its concerns and provide it with information where Staff believed the information would advance the investigation being conducted by the Commission. While the independent power producers have been permitted to intervene, they do not have an independent, due process right to ask for whatever information they want, and obtain it from another intervenor who is also a competitor. *See Re Public Service Company of New Hampshire*. If competitors were permitted to use the regulatory process as a weapon to obtain such information from other competitors, it would have the perverse impact of chilling the development of renewable energy supplies, rather than encouraging it as RSA 362-F intended.

7. On October 28, 2010, Laidlaw filed with the Commission a "Notice of Withdrawal" from this docket, citing "the extensive discovery dispute the interveners intend to pursue" and the likelihood that such disputes would delay the proceeding. Laidlaw Notice of Withdrawal, at 2-4.¹

8. The Wood-Fired IPPs believe that Laidlaw's blanket objection to data requests intended to discover information, documents and materials of substantial relevance to the issues

¹ The Wood-Fired IPPs do not concede that Laidlaw has the unilateral right to withdraw from this proceeding, in view of its voluntary intervention, its motion for expedited consideration, its prior commitments to the Commission and other parties, and its prior participation in the docket, including the provision of pro forma financial information and other information to Commission staff and the Office of Consumer Advocate. The Wood-Fired IPPs intend to file an objection to the Laidlaw Notice of Withdrawal in the near future.

before the Commission are unfounded and unsustainable, inconsistent as they are with the express commitments made by Laidlaw on the record in this proceeding. Therefore, the Wood-Fired IPPs have filed this motion to compel.

MOTION TO COMPEL

I. Laidlaw's Blanket Objection is Unsustainable

9. Contrary to the commitment it made during the prehearing conference in this proceeding to “not assert a blanket objection to discovery requests directed at Laidlaw,” Laidlaw has made such a blanket objection to every one of the Wood-Fired IPPs’ data requests. This blanket objection is unsustainable, based on applicable law and the exigencies of this proceeding, in particular where Laidlaw itself has sought an extremely expedited schedule for consideration and approval, and agreed to be subject to discovery in order to obtain other parties’ agreement to expedited consideration.

10. The New Hampshire Supreme Court has held that a party in a legal proceeding in New Hampshire is entitled to be “fully informed and have access to all evidence favorable to his side of the issue. This is true whether the issue is one which has been raised by him or by his opponents and whether the evidence is in the possession of his opponent or someone else.” *Scontsas v. Citizens Insurance Co.*, 109 N. H. 386 (1969). *See also Yancey v. Yancey*, 119 N.H. 197, 198 (1979) (holding that New Hampshire takes a “liberal view of discovery”); *also cf. Barry v. Home*, 117 N.H. 693, 694 (1977) (stating intent of Superior Court Rule 35(b)(1) is to allow “very broad discovery”).

11. Under general rules of discovery, even information and documents that would be inadmissible at trial may be subject to pre-trial discovery from a party “if the information sought

appears reasonably calculated to lead to the discovery of admissible evidence.” N.H. Super. Ct. R. 35(b)(1).

12. The Commission has confirmed that its policies are “consistent with Superior Court Rule 35(b) regarding the scope of discovery,” and that it requires parties “to show that the information being sought in discovery is relevant to the proceeding or is reasonably calculated to lead to the discovery of admissible evidence.” *City of Nashua*, Order No. 24,681 (October 23, 2006). The Commission has stated that “[d]iscovery should be relevant to the proceeding or reasonably calculated to the discovery of admissible evidence,” and the Commission “will deny a motion to compel discovery only ‘when [it] can perceive of no circumstance in which the requested data will be relevant.’” (citations omitted). *Re Public Service Company of New Hampshire*, 86 NH PUC 730, 731-732 (2001). The Commission’s stated positions reflect important due process considerations in litigated regulatory proceedings. *See, e.g.*, N.H. Const. Pt. 1, Art 15 (right of due process established); N.H. Code Admin Rules Puc 203.09(a) (establishing intervenors’ right to discovery); RSA 541-A:33, IV and N.H. Code Admin. Rules Puc 203.24 (establishing right to full and effective cross examination for full and true disclosure of the facts); *Appeal of Office of Consumer Advocate*, 134 N.H. 651, 659-60 (1991) (applying N.H. Const. Pt. 1, Art 15 due process of law provisions to proceedings before the Commission).

13. Therefore, data requests for relevant information and documents directed to a party properly subject to discovery must be answered even if the information provided and documents produced in response would not be admissible during the hearing, in the interest of guarantying full due process rights to all parties.

14. Laidlaw has intervened as a full party in this proceeding and has committed on the record to the Commission and to other parties that it “would certainly be prepared to respond to

discovery requests, consistent with what we understand the scope of the proceeding to be.” Transcript, 9/29/10, p. 110. As noted by Chairman Getz during the prehearing conference, Laidlaw is more than just a “typical intervenor” in this proceeding because it is the contract counterparty to the PPA and POA. Transcript, 9/29/10, pp. 110-111. Laidlaw also has moved for expedited consideration and approval of the PPA and POA and has already responded to data requests issued by the Commission staff, including the submission of pro forma financial information under a claim of confidential treatment. Laidlaw is clearly the only party in possession of information, documents and materials of great relevance to this proceeding. Its attempt to unilaterally decide which party’s discovery requests it responds to is therefore improper and it should be compelled to the Wood-Fired IPPs’ data requests, which are intended to discover such relevant information, documents and materials.

II. The Scope of the Wood-Fired IPPs’ Data Requests to Laidlaw is Reasonable Under the Circumstances of this Proceeding

15. In confirming that Laidlaw should be subject to discovery requests in this proceeding because it is the contract counterparty to the PPA and the POA, Commission Chairman Getz noted that “obviously, there will be issues of relevance in the normal scope of discovery. But I guess I would say, at this point, let’s see where the discovery goes and how we need to deal with it, if it looks like it’s going beyond the bounds of what’s reasonable under the circumstances.” Transcript, 9/29/10, p. 111. As demonstrated below, the Wood-Fired IPPs’ second set of data requests issued to Laidlaw are intended to discover information relevant to the proceeding or reasonably calculated to the discovery of admissible evidence and the scope of the data requests is reasonable under the circumstances.

16. The scope of this proceeding is necessarily broad and is not defined in or limited by PSNH’s petition for approval or the pre-filed testimony it has submitted. The proceeding

seeks approval of the PPA and the POA under the “public interest” standard articulated in RSA 362-F:9, II, which requires the Commission to evaluate and balance a wide range of factors, including the extent to which multi-year renewable energy procurements are cost-effective, promote full and fair competition, result in a reasonable mix of resources, are conducted in a manner that is administratively efficient and promotes market-driven competitive innovations and solutions, promote economic development in New Hampshire, and provide environmental benefits for New Hampshire. RSA 362-F:9, II. The Wood-Fired IPPs’ second set of data requests issued to Laidlaw seek to discover information, documents and materials that are relevant to the broad scope of inquiry required in this proceeding.

17. Many of the Wood-Fired IPPs’ data requests to Laidlaw seek discovery of information regarding Laidlaw and its relevant affiliates, their inter-corporate structure, agreements between affiliates, owned and leased property interests, project debt financing and equity funding plans and initiatives, proposed use of federal tax credits, and potential sales of Laidlaw or its project. These data requests include 2-1, 2-3, 2-4c, 2-5f, 2-6, 2-10, 2-14, 2-18, 2-20, 2-21, 2-23, 2-27, 2-34, 2-35b, 2-40, 2-41, 2-42, 2-43, 2-44, and 2-45. Laidlaw is the contract counterparty to the PPA, a proposed 20-year contract for the sale of energy, capacity and RECs for use by PSNH in meeting its default service needs and RPS compliance requirements, at prices which may well prove to be above market-based alternatives. The POA is the only mechanism potentially available to recover any such above-market costs, and Laidlaw will not own the Facility, one of Laidlaw’s affiliates will. In effect, PSNH’s ratepayers are being asked to indirectly invest in the Facility; therefore, it is of critical importance in this proceeding to fully examine Laidlaw and its affiliates and their plans to develop, finance, fund, construct and operate the Facility over the 20-year term of the PPA. Because the information sought to be discovered

by the referenced data requests are relevant to this proceeding and are reasonably calculated to lead to the discovery of admissible evidence bearing on the “public interest” standard, Laidlaw should be compelled to provide complete and definitive responses to these data requests.

18. Many other of the Wood-Fired IPPs’ data requests to Laidlaw seek discovery regarding the design and operation of the proposed Facility, including the capacity and efficiency of the Facility, its interconnection to the transmission system, its projected wood fuel consumption and wood ash beneficial use or disposal, and its fuel procurement practices, sources and related price projections. These data requests include 2-5a, b and g, 2-6, 2-7, 2-8, 2-17, 2-22, 2-31, 2-32, 2-33, 2-36, 2-37, and 2-38. The information, documents and materials sought by these data requests will be relevant to the Commission’s inquiry into the future operation of the Facility and the effects this operation may have on prices paid under the PPA and the fair market value of the Facility, as well as other economic and market impacts that must be considered with respect to the “public interest” of the proposed PPA and POA. Because the information sought to be discovered by the referenced data requests are relevant to this proceeding and are reasonably calculated to lead to the discovery of admissible evidence bearing on the “public interest” standard, Laidlaw should be compelled to provide complete and definitive responses to these data requests.

19. A number of the Wood-Fired IPPs’ data requests seek discovery of the information relevant to the development, negotiation, interpretation and effect of the terms and conditions of the PPA and POA, the effect of regulatory approval of these terms and conditions, and the potential impacts of future operational, market and legal contingencies on these terms and conditions. These data requests include 2-2, 2-4a and b, 2-5d and e, 2-6, 2-9, 2-11, 2-12, 2-13, 2-15, 2-16, 2-19, 2-20, 2-24, 2-25, 2-26, 2-28, 2-29, 2-35a, 2-39, and 2-46. These data

requests are intended to discover information and documents relevant to the Commission's evaluation of the PPA and the POA under the "public interest" standard specified in RSA 362-F:9, II. For example, information considered and positions taken by Laidlaw and PSNH during the negotiation process would serve to clarify the relative values of the purchase option and right of first refusal granted by Laidlaw to PSNH, the wood price adjustment clause in Section 6.1.2(a)(ii) of the PPA, the 20-year contract term of the PPA, and the projected future prices of energy, capacity and RECs. These values are of primary importance in evaluating the effect on ratepayers and other stakeholders of the proposed PPA and POA, which would commit PSNH to purchase the net output of the Facility at fixed base prices over a period of twenty years. New Hampshire ratepayers should know what they are paying for, not just in the aggregate but on an itemized and unbundled basis, and these data requests are intended to discover these values which have not otherwise been disclosed either by PSNH or by Laidlaw. Because the information sought to be discovered by the referenced data requests are relevant to this proceeding and are reasonably calculated to lead to the discovery of admissible evidence bearing on the "public interest" standard, Laidlaw should be compelled to provide complete and definitive responses to these data requests.

20. Several of the Wood-Fired IPPs' data requests to Laidlaw seek to discover information, documents and materials regarding market price forecasts and market condition projections relative to the markets for energy, capacity, RECs, and wood fuel supplies. These data requests include 2-5c, 2-6, 2-17, and 2-22. Given that this proceeding is to consider approval in the "public interest" of a 20-year contract to purchase energy, capacity, and RECs at what well may prove to be above-market costs, and includes the wood price adjustment mechanism through which Laidlaw is largely insulated from adverse changes in the regional

market for wood fuel supply, these market projections are of great relevance to the inquiry that must be conducted by the Commission in considering approval of the PPA and the POA. Because the information sought to be discovered by the referenced data requests are relevant to this proceeding and are reasonably calculated to lead to the discovery of admissible evidence bearing on the “public interest” standard, Laidlaw should be compelled to provide complete and definitive responses to these data requests.

CERTIFICATION AND CONCLUSION

21. In accordance with N.H. Code of Admin. Rules PUC 203.09(i), counsel for the Wood-Fired IPPs has contacted counsel for Laidlaw to attempt in good faith to resolve the discovery disputes that are the subject of this motion.

22. To the extent that Laidlaw were to posit new or expanded arguments for objecting to the Wood-Fired IPPs’ data requests referenced in this motion, the Wood-Fired IPPs reserve the right to respond to such arguments in writing or at oral argument.

23. In addition, to the extent that the responses to any data requests to which Laidlaw is compelled to respond create the need for follow-up data requests, the Wood-Fired IPPs request that the Commission amend the procedural schedule to provide the Wood-Fired IPPs with an opportunity for such additional discovery as they would have been afforded had Laidlaw provided timely and complete responses in the first instance.

WHEREFORE, the Wood-Fired IPPs respectfully request the following relief:

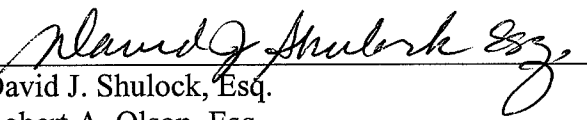
- A. Order Laidlaw to provide full and complete responses to all of the Wood-Fired IPPs' data requests referenced in this motion; and
- B. Grant such other and further relief as the Commission deems just.

Respectfully submitted,

BRIDGEWATER POWER COMPANY, L.P.,
PINETREE POWER, INC.,
PINETREE POWER-TAMWORTH, INC.,
SPRINGFIELD POWER LLC,
DG WHITEFIELD, LLC d/b/a WHITEFIELD POWER &
LIGHT COMPANY, and
INDECK ENERGY-ALEXANDRIA, LLC

By Their Attorneys,

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CERTIFICATE OF SERVICE

I hereby certify that, on this date, I caused the attached Motion to Compel to be filed in hand and electronically to the Commission and electronically, or by U.S. Mail, first class, to the persons identified on the attached Service List in accordance with N.H. Admin. Code Rules PUC 203.11(a).

Date: November 1, 2010

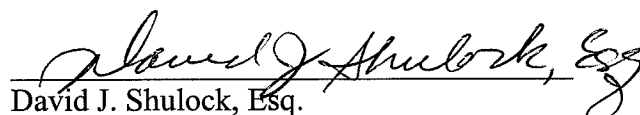

David J. Shulock, Esq.

EXHIBIT A

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.1

Date of Response: October 25, 2010

REQUEST: Please provide all documents in the possession or under the control of Laidlaw Berlin Biopower, LLC ("Laidlaw"), or any of its affiliates, members or employees regarding the fact that "Seller" under the Power Purchase Agreement with Laidlaw ("PPA") does not or will not own the "Facility" and "Facility Site" as those terms are defined in the PPA's Appendix B.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II. Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

The Commission has previously ruled that an intervenor who has not filed testimony is not subject to discovery. *Re Public Service Company of New Hampshire*, 89 NH PUC 226 (2004). Laidlaw has not filed any testimony but nevertheless has agreed to provide some information voluntarily, subject to it being "within the bounds of what is reasonable under the circumstances." See September 29, 2010 Prehearing Transcript at 111. This request does not meet that criteria. In this case, subjecting LBB to the type of expansive, burdensome and irrelevant discovery requests that have been propounded by other intervenors whose stated concern is their competitive position would subvert the Commission's process and will not further the analysis that the Commission is statutorily charged with undertaking. The Commission is fully capable of conducting that assessment through the analysis performed by its own staff and can, where it determines it appropriate, pursue issues identified by any of the intervenors. LBB has worked closely with staff to address its concerns and provide it with information where Staff believed the information would advance the investigation being conducted by the Commission. While the independent power producers have been permitted to intervene, they do not have an independent, due process right to ask for whatever information they want, and obtain it from another intervenor who is also a competitor. See *Re Public Service Company of New Hampshire*. If competitors were permitted to use the regulatory process as a weapon to obtain such information from other competitors, it would have the perverse impact of chilling the development of renewable energy supplies, rather than encouraging it as RSA 362-F intended.

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.2

Date of Response: October 25, 2010

REQUEST: Please provide all documents Laidlaw examined in evaluating, negotiating and evaluating the PPA, (inclusive of any drafts thereof, term sheets and letters of intent) with PSNH.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II . Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

The Commission has previously ruled that an intervenor who has not filed testimony is not subject to discovery. *Re Public Service Company of New Hampshire*, 89 NH PUC 226 (2004). Laidlaw has not filed any testimony but nevertheless has agreed to provide some information voluntarily, subject to it being "within the bounds of what is reasonable under the circumstances." See September 29, 2010 Prehearing Transcript at 111. This request does not meet that criteria. In this case, subjecting LBB to the type of expansive, burdensome and irrelevant discovery requests that have been propounded by other intervenors whose stated concern is their competitive position would subvert the Commission's process and will not further the analysis that the Commission is statutorily charged with undertaking. The Commission is fully capable of conducting that assessment through the analysis performed by its own staff and can, where it determines it appropriate, pursue issues identified by any of the intervenors. LBB has worked closely with staff to address its concerns and provide it with information where Staff believed the information would advance the investigation being conducted by the Commission. While the independent power producers have been permitted to intervene, they do not have an independent, due process right to ask for whatever information they want, and obtain it from another intervenor who is also a competitor. See *Re Public Service Company of New Hampshire*. If competitors were permitted to use the regulatory process as a weapon to obtain such information from other competitors, it would have the perverse impact of chilling the development of renewable energy supplies, rather than encouraging it as RSA 362-F intended.

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PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.3

Date of Response: October 25, 2010

REQUEST: Please provide all documents in Laidlaw's possession or under its control pertaining to PJPD Holdings, LLC, and or NewCo. Energy, Inc. ("NEWCO"), or any affiliate of any of the foregoing or any member, shareholder or employee of the foregoing and to the Facility, Facility Site, the negotiation of the PPA term sheets and letters of intent for the PPA and the PPA Appendix B Option Agreement.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II. Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

The Commission has previously ruled that an intervenor who has not filed testimony is not subject to discovery. *Re Public Service Company of New Hampshire*, 89 NH PUC 226 (2004). Laidlaw has not filed any testimony but nevertheless has agreed to provide some information voluntarily, subject to it being "within the bounds of what is reasonable under the circumstances." See September 29, 2010 Prehearing Transcript at 111. This request does not meet that criteria. In this case, subjecting LLB to the type of expansive, burdensome and irrelevant discovery requests that have been propounded by other intervenors whose stated concern is their competitive position would subvert the Commission's process and will not further the analysis that the Commission is statutorily charged with undertaking. The Commission is fully capable of conducting that assessment through the analysis performed by its own staff and can, where it determines it appropriate, pursue issues identified by any of the intervenors. LBB has worked closely with staff to address its concerns and provide it with information where Staff believed the information would advance the investigation being conducted by the Commission. While the independent power producers have been permitted to intervene, they do not have an independent, due process right to ask for whatever information they want, and obtain it from another intervenor who is also a competitor. See *Re Public Service Company of New Hampshire*. If competitors were permitted to use the regulatory process as a weapon to obtain such information from other competitors, it would

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The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.4

Date of Response: October 25, 2010

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- REQUEST:**
- a. Please provide all drafts of the PPA inclusive of those marked-up or commented upon by any Laidlaw affiliate or employee or consultant of either and, to the extent in the control or possession of Laidlaw, by PJPD Holdings, LLC and NEWCO.
 - b. Please provide the name, address, and relationship to any entity, if any, of any person or entity in Q. 2-4(a) that received a copy of the PPA inclusive of term sheet and letters of intent and any drafts of the foregoing.
 - c. Please identify by name and address all persons and entities consulted or providing advice or services regarding Facility financing and provide all documents pertaining to the Facility, the PPA and potential financing and evaluation of the same by such advisors.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II. Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

The Commission has previously ruled that an intervenor who has not filed testimony is not subject to discovery. *Re Public Service Company of New Hampshire*, 89 NH PUC 226 (2004). Laidlaw has not filed any testimony but nevertheless has agreed to provide some information voluntarily, subject to it being "within the bounds of what is reasonable under the circumstances." See September 29, 2010 Prehearing Transcript at 111. This request does not meet that criteria. In this case, subjecting LBB to the type of expansive, burdensome and irrelevant discovery requests that have been propounded by other intervenors whose stated concern is their competitive position would subvert the Commission's process and will not further the analysis that the Commission is statutorily charged with undertaking. The Commission is fully capable of conducting that assessment through the analysis performed by its own staff and can, where it determines it appropriate, pursue issues identified by any of the intervenors. LBB has worked closely with staff to address its concerns and provide it with information where Staff believed the information would advance

the investigation being conducted by the Commission. While the independent power producers have been permitted to intervene, they do not have an independent, due process right to ask for whatever information they want, and obtain it from another intervenor who is also a competitor. *See Re Public Service Company of New Hampshire*. If competitors were permitted to use the regulatory process as a weapon to obtain such information from other competitors, it would have the perverse impact of chilling the development of renewable energy supplies, rather than encouraging it as RSA 362-F intended.

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Date Received: October 20, 2010
Request No.: IPP LBB 2.5

Date of Response: October 25, 2010

REQUEST: Did Laidlaw or any of its consultants or any Laidlaw affiliate or its consultants evaluate, review, analyze, examine, or report on any of the following or obtain any of the following from another person or entity:

- a. The number of tons of Biomass Fuel (as defined in the PPA) to be combusted annually at the Facility.
- b. Whether the Facility can or will comply with the proposed biomass eligibility requirements for efficiency and fuel harvesting practices as set forth in the draft proposed Massachusetts RPS Class I Regulations (225 CMR 14.00) released on or about September 17, 2010 prepared by the Massachusetts Department of Energy Resources.
- c. Estimated or forecast of the price of any of Massachusetts, Connecticut and Rhode Island Class I REC's over the term of the PPA or any set of lesser years.
- d. Executed and or draft term sheets, letters of intent, or similar documents pertaining to the PPA or the Option Agreement with PJPD Holdings, LLC or any affiliate of either.
- e. Any drafts of or the final to be executed version of the PPA.
- f. Federal tax credits and grants (*e.g.*, new market tax credits) obtained or proposed to be obtained for use in Facility financing, development or operation and the effect on Facility capital needs and revenue.
- g. Biomass Fuel increases or decreases under PPA Section 6.1.2(a) and the increases or decreases in the PPA energy price resulting therefrom.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II. Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

The Commission has previously ruled that an intervenor who has not filed testimony is not subject to discovery. *Re Public Service Company of New Hampshire*, 89 NH PUC 226 (2004). Laidlaw has not filed any testimony but nevertheless has agreed to provide some information voluntarily, subject to it being "within the bounds of what is reasonable under the circumstances." See September 29, 2010 Prehearing Transcript at 111. This request does not meet that criteria. In this case, subjecting LLB to the type of expansive, burdensome and irrelevant discovery requests that have been propounded by other intervenors whose stated concern is their competitive position would subvert the Commission's process and will not further the analysis that the Commission is statutorily charged with undertaking. The Commission is fully capable of conducting that assessment through the analysis performed by its own staff and can, where it determines it appropriate, pursue issues identified by any of the intervenors. LBB has worked closely with staff to address its concerns and provide it with information where Staff believed the information would advance the investigation being conducted by the Commission. While the independent power producers have been permitted to intervene, they do not have an independent, due process right to ask for whatever information they want, and obtain it from another intervenor who is also a competitor. See *Re Public Service Company of New Hampshire*. If competitors were permitted to use the regulatory process as a weapon to obtain such information from other competitors, it would have the perverse impact of chilling the development of renewable energy supplies, rather than encouraging it as RSA 362-F intended.

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.6

Date of Response: October 25, 2010

REQUEST: For each subquestion in Q. 2-5 please provide the documents noted in the subquestion for each affirmative answer (whether in whole or part) in Q. 2-5. Also provide all evaluation, analyses, studies, reports, and forecasts pertaining to any such documents and their subject mater.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II . Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

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PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.7

Date of Response: October 25, 2010

REQUEST: To the extent in the possession or under the control of Laidlaw or its affiliates please provide copies of all biomass fuel contracts whether draft, proposed or final for the Facility.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II. Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

The Commission has previously ruled that an intervenor who has not filed testimony is not subject to discovery. *Re Public Service Company of New Hampshire*, 89 NH PUC 226 (2004). Laidlaw has not filed any testimony but nevertheless has agreed to provide some information voluntarily, subject to it being "within the bounds of what is reasonable under the circumstances." See September 29, 2010 Prehearing Transcript at 111. This request does not meet that criteria. In this case, subjecting LLB to the type of expansive, burdensome and irrelevant discovery requests that have been propounded by other intervenors whose stated concern is their competitive position would subvert the Commission's process and will not further the analysis that the Commission is statutorily charged with undertaking. The Commission is fully capable of conducting that assessment through the analysis performed by its own staff and can, where it determines it appropriate, pursue issues identified by any of the intervenors. LBB has worked closely with staff to address its concerns and provide it with information where Staff believed the information would advance the investigation being conducted by the Commission. While the independent power producers have been permitted to intervene, they do not have an independent, due process right to ask for whatever information they want, and obtain it from another intervenor who is also a competitor. See *Re Public Service Company of New Hampshire*. If competitors were permitted to use the regulatory process as a weapon to obtain such information from other competitors, it would have the perverse impact of chilling the development of renewable energy supplies, rather than encouraging it as RSA 362-F intended.

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.8

Date of Response: October 25, 2010

REQUEST: To the extent, in the possession of, or under the control of Laidlaw or its affiliates please provide the name and address of all proposed biomass suppliers to the Facility and identify any that are known to also be suppliers to Schiller Station Unit 5.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II . Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

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PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.9

Date of Response: October 25, 2010

REQUEST: Is it Laidlaw's position that once NHPUC approves the PPA, the NHPUC could not subsequently order (whether on its own motion, that of the Office of Consumer Advocate or any other person or entity) a revision to the PPA, inclusive of any or all of its pricing terms, or order the termination of the PPA? If so, please provide the reference to the PPA provisions that so provide and the citation to the authority of the NHPUC to issue such an approval under state law.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II. Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

The Commission has previously ruled that an intervenor who has not filed testimony is not subject to discovery. *Re Public Service Company of New Hampshire*, 89 NH PUC 226 (2004). Laidlaw has not filed any testimony but nevertheless has agreed to provide some information voluntarily, subject to it being "within the bounds of what is reasonable under the circumstances." See September 29, 2010 Prehearing Transcript at 111. This request does not meet that criteria. In this case, subjecting LBB to the type of expansive, burdensome and irrelevant discovery requests that have been propounded by other intervenors whose stated concern is their competitive position would subvert the Commission's process and will not further the analysis that the Commission is statutorily charged with undertaking. The Commission is fully capable of conducting that assessment through the analysis performed by its own staff and can, where it determines it appropriate, pursue issues identified by any of the intervenors. LBB has worked closely with staff to address its concerns and provide it with information where Staff believed the information would advance the investigation being conducted by the Commission. While the independent power producers have been permitted to intervene, they do not have an independent, due process right to ask for whatever information they want, and obtain it from another intervenor who is also a competitor. See *Re Public Service Company of New Hampshire*. If competitors were permitted to use the regulatory process as a weapon to obtain such information from other competitors, it would

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PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.10

Date of Response: October 25, 2010

REQUEST: Please provide all calculations, spreadsheets, proformas, evaluations, analyses and studies of or for the expected cash flows (whether annual or cumulative and inclusive of any or all of the following: financial returns, revenues, expenses, taxes, depreciation, net revenue) of the Facility for the term of the PP A and for each year of said term prepared by or on behalf of Laidlaw or any affiliate, and any prepared by a third party if in the possession or control of Laidlaw or any affiliate.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II . Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

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PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.11

Date of Response: October 25, 2010

REQUEST: Mr. Large's testimony at page 2, lines 22-25 states that the Facility will utilize approximately 750,000 tons of biomass fuel annually when operating at full capacity.

- a. Would Laidlaw accept limiting the applicability of the PP A Section 6.1.2 wood price adjustment to no more than such amount? If not, please explain. If Laidlaw would accept a different number as a limitation, please state that number and explain Laidlaw's rationale for its use instead of the number quoted by Mr. Large.
- b. Please provide all calculations and analyses in Laidlaw's possession or control of the increase in the energy price attributable to the wood price adjustment under Section 6.1.2 of the PP A over the term of the PP A and for each year of the PP A. Please identify all assumptions used for data inputs under said Section and calculation. Please provide all workpapers and any documents used or consulted to determine the data inputs.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II. Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

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conducting that assessment through the analysis performed by its own staff and can, where it determines it appropriate, pursue issues identified by any of the intervenors. LBB has worked closely with staff to address its concerns and provide it with information where Staff believed the information would advance the investigation being conducted by the Commission. While the independent power producers have been permitted to intervene, they do not have an independent, due process right to ask for whatever information they want, and obtain it from another intervenor who is also a competitor. *See Re Public Service Company of New Hampshire*. If competitors were permitted to use the regulatory process as a weapon to obtain such information from other competitors, it would have the perverse impact of chilling the development of renewable energy supplies, rather than encouraging it as RSA 362-F intended.

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.12

Date of Response: October 25, 2010

REQUEST: Please state Laidlaw's understanding of whether any continued payment would be required for RECs under the PPA if at any point in time: (a) the New Hampshire General Court were to repeal RSA 362-F, (b) the renewable portfolio eligibility requirements were to change such that the Facility were to become ineligible for New Hampshire Class I certification or the production of New Hampshire Class I RECs, or (c) the Facility were ineligible for any other substitute environmental attribute subsidy or incentive program. In your answer, please elaborate upon the intent and operation of sections 1.8, 1.44, 1.57, 8.1 and 23 of the PPA.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II. Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

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Company of New Hampshire. If competitors were permitted to use the regulatory process as a weapon to obtain such information from other competitors, it would have the perverse impact of chilling the development of renewable energy supplies, rather than encouraging it as RSA 362-F intended.

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.13

Date of Response: October 25, 2010

REQUEST: Has Laidlaw placed any dollar value on the PP A's purchase option or right of first refusal? If so, what is that dollar value and how was it calculated? Please describe all assumptions made, and provide all work papers, projections, analyses, and documents relied upon.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II . Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

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PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

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Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.14

Date of Response: October 25, 2010

REQUEST: Has Laidlaw (or any of its consultants, advisors, affiliates, or PJPD Holdings, LLC or NEWCO) studied, analyzed, projected or forecasted the fair market value of the Facility over the PPA term and/or at the end of the term of the PPA? If not, please explain Laidlaw's decision not to do so. If so, please provide any projections in your possession or control regarding the fair market value of the Facility for any and all of the years during which the PP A and PSNH's right of first refusal to purchase and option to purchase are expected to be in effect. Please provide all assumptions made and provide all related work papers, projections, analyses, and documents.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II . Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

The Commission has previously ruled that an intervenor who has not filed testimony is not subject to discovery. *Re Public Service Company of New Hampshire*, 89 NH PUC 226 (2004). Laidlaw has not filed any testimony but nevertheless has agreed to provide some information voluntarily, subject to it being "within the bounds of what is reasonable under the circumstances." *See* September 29, 2010 Prehearing Transcript at 111. This request does not meet that criteria. In this case, subjecting LLB to the type of expansive, burdensome and irrelevant discovery requests that have been propounded by other intervenors whose stated concern is their competitive position would subvert the Commission's process and will not further the analysis that the Commission is statutorily charged with undertaking. The Commission is fully capable of conducting that assessment through the analysis performed by its own staff and can, where it determines it appropriate, pursue issues identified by any of the intervenors. LBB has worked closely with staff to address its concerns and provide it with information where Staff believed the information would advance the investigation being conducted by the Commission. While the independent power producers have been permitted to intervene, they do not have an independent, due process right to ask for whatever information they want, and obtain it from another intervenor who is also a competitor. *See Re Public Service*

Company of New Hampshire. If competitors were permitted to use the regulatory process as a weapon to obtain such information from other competitors, it would have the perverse impact of chilling the development of renewable energy supplies, rather than encouraging it as RSA 362-F intended.

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
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DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.15

Date of Response: October 25, 2010

REQUEST: Please provide a complete and detailed description of any and all specific price points in the negotiations and the basis for the changes in the proposed prices during the negotiations. If any price and non-price terms of the PPA were bundled by either party during the negotiations, please state which price and non-price terms were bundled together and identify the party requesting or offering same.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II. Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

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Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.16

Date of Response: October 25, 2010

REQUEST: Please provide all materials exchanged between PSNH and Laidlaw (inclusive of any and all persons participating in said negotiations on behalf of Laidlaw) in relation to the negotiation process. Include in this response all evaluations, studies, reports, correspondence, e-mails, notes, presentation materials, work papers, letters of intent, term sheets, draft contracts and the like.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II. Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

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Date Received: October 20, 2010
Request No.: IPP LBB 2.17

Date of Response: October 25, 2010

REQUEST: For each year of the PPA term, please calculate and provide in \$/MWH, the amount of the \$/MWH energy price that will cover or equal the biomass fuel cost expense in each year of the term of the PPA. Please provide all workpapers, assumptions and documents pertaining to said calculation. If Laidlaw has not performed such a calculation or does not otherwise have such data please explain why.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II. Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

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DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.18

Date of Response: October 25, 2010

REQUEST: Please identify any attempts, proposals, or offering by any of Laidlaw BioPower, LLC, PJPD Holding, LLC, NEWCO, Cate Street Capital, Aware Energy Funding Capacity, LLC or any member, shareholder, employee or affiliate, or consultant or advisor of any of the foregoing to sell, syndicate, transfer, lease, or otherwise dispose of any debt, equity or other financial or business interest in all or any of the Facility, Facility Site, PPA or Laidlaw BioPower, LLC, NEWCO or PJPD Holdings, LLC. If so please state your understanding of the same, identify name and address of the parties involved, and provide all documents in Laidlaw's possession or under its control regarding the same.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II. Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

The Commission has previously ruled that an intervenor who has not filed testimony is not subject to discovery. *Re Public Service Company of New Hampshire*, 89 NH PUC 226 (2004). Laidlaw has not filed any testimony but nevertheless has agreed to provide some information voluntarily, subject to it being "within the bounds of what is reasonable under the circumstances." See September 29, 2010 Prehearing Transcript at 111. This request does not meet that criteria. In this case, subjecting LLB to the type of expansive, burdensome and irrelevant discovery requests that have been propounded by other intervenors whose stated concern is their competitive position would subvert the Commission's process and will not further the analysis that the Commission is statutorily charged with undertaking. The Commission is fully capable of conducting that assessment through the analysis performed by its own staff and can, where it determines it appropriate, pursue issues identified by any of the intervenors. LBB has worked closely with staff to address its concerns and provide it with information where Staff believed the information would advance the investigation being conducted by the Commission. While the independent power producers have been permitted to intervene, they do not have an independent, due process right to ask for whatever information they want, and obtain it from another intervenor who is also a competitor. See *Re Public Service*

Company of New Hampshire. If competitors were permitted to use the regulatory process as a weapon to obtain such information from other competitors, it would have the perverse impact of chilling the development of renewable energy supplies, rather than encouraging it as RSA 362-F intended.

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.19

Date of Response: October 25, 2010

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- REQUEST:** a. With reference to PPA Section 12.3.1 please provide the "total installed cost consistent with Seller's budgeted costs" as stated therein.
- b. Please provide Seller's "budgeted costs" as stated in PP A Section 12.3 .1.
- c. Please provide the range of or "return on total investment in the Facility" that is referenced in PP A Section 12.3 .1. Please provide all documents pertaining thereto in Laidlaw's possession or control.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II . Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

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process as a weapon to obtain such information from other competitors, it would have the perverse impact of chilling the development of renewable energy supplies, rather than encouraging it as RSA 362-F intended.

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.20

Date of Response: October 25, 2010

REQUEST: Please provide any information provided by Laidlaw to PSNH under PP A Section 26.2 and identify any pending requests by PSNH under that Section.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II. Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

The Commission has previously ruled that an intervenor who has not filed testimony is not subject to discovery. *Re Public Service Company of New Hampshire*, 89 NH PUC 226 (2004). Laidlaw has not filed any testimony but nevertheless has agreed to provide some information voluntarily, subject to it being "within the bounds of what is reasonable under the circumstances." *See* September 29, 2010 Prehearing Transcript at 111. This request does not meet that criteria. In this case, subjecting LLB to the type of expansive, burdensome and irrelevant discovery requests that have been propounded by other intervenors whose stated concern is their competitive position would subvert the Commission's process and will not further the analysis that the Commission is statutorily charged with undertaking. The Commission is fully capable of conducting that assessment through the analysis performed by its own staff and can, where it determines it appropriate, pursue issues identified by any of the intervenors. LBB has worked closely with staff to address its concerns and provide it with information where Staff believed the information would advance the investigation being conducted by the Commission. While the independent power producers have been permitted to intervene, they do not have an independent, due process right to ask for whatever information they want, and obtain it from another intervenor who is also a competitor. *See Re Public Service Company of New Hampshire*. If competitors were permitted to use the regulatory process as a weapon to obtain such information from other competitors, it would have the perverse impact of chilling the development of renewable energy supplies, rather than encouraging it as RSA 362-F intended.

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.21

Date of Response: October 25, 2010

REQUEST: With reference to the Appendix B form of purchase option agreement, please provide the lease (and any drafts thereof) of the Facility and Facility Site noted in Recital C.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II. Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

The Commission has previously ruled that an intervenor who has not filed testimony is not subject to discovery. *Re Public Service Company of New Hampshire*, 89 NH PUC 226 (2004). Laidlaw has not filed any testimony but nevertheless has agreed to provide some information voluntarily, subject to it being "within the bounds of what is reasonable under the circumstances." *See* September 29, 2010 Prehearing Transcript at 111. This request does not meet that criteria. In this case, subjecting LLB to the type of expansive, burdensome and irrelevant discovery requests that have been propounded by other intervenors whose stated concern is their competitive position would subvert the Commission's process and will not further the analysis that the Commission is statutorily charged with undertaking. The Commission is fully capable of conducting that assessment through the analysis performed by its own staff and can, where it determines it appropriate, pursue issues identified by any of the intervenors. LBB has worked closely with staff to address its concerns and provide it with information where Staff believed the information would advance the investigation being conducted by the Commission. While the independent power producers have been permitted to intervene, they do not have an independent, due process right to ask for whatever information they want, and obtain it from another intervenor who is also a competitor. *See Re Public Service Company of New Hampshire*. If competitors were permitted to use the regulatory process as a weapon to obtain such information from other competitors, it would have the perverse impact of chilling the development of renewable energy supplies, rather than encouraging it as RSA 362-F intended.

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.22

Date of Response: October 25, 2010

REQUEST: Please provide the biomass fuel price forecast, if any, used by Laidlaw, NEWCO (or by any other Laidlaw affiliate) to determine or otherwise evaluate the increase or decrease to the annual energy payment under Section 6.1.2(a) of the PPA. Please identify all assumptions, including but not limited to tons of fuel, fuel moisture content, and dollars per ton of fuel.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II. Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

The Commission has previously ruled that an intervenor who has not filed testimony is not subject to discovery. *Re Public Service Company of New Hampshire*, 89 NH PUC 226 (2004). Laidlaw has not filed any testimony but nevertheless has agreed to provide some information voluntarily, subject to it being "within the bounds of what is reasonable under the circumstances." See September 29, 2010 Prehearing Transcript at 111. This request does not meet that criteria. In this case, subjecting LLB to the type of expansive, burdensome and irrelevant discovery requests that have been propounded by other intervenors whose stated concern is their competitive position would subvert the Commission's process and will not further the analysis that the Commission is statutorily charged with undertaking. The Commission is fully capable of conducting that assessment through the analysis performed by its own staff and can, where it determines it appropriate, pursue issues identified by any of the intervenors. LBB has worked closely with staff to address its concerns and provide it with information where Staff believed the information would advance the investigation being conducted by the Commission. While the independent power producers have been permitted to intervene, they do not have an independent, due process right to ask for whatever information they want, and obtain it from another intervenor who is also a competitor. See *Re Public Service Company of New Hampshire*. If competitors were permitted to use the regulatory process as a weapon to obtain such information from other competitors, it would have the perverse impact of chilling the development of renewable energy supplies, rather than encouraging it as RSA 362-F intended.

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.23

Date of Response: October 25, 2010

REQUEST: Please state Laidlaw's estimated internal rate of return ("IRR") on the project with the PP A both with and without consideration of any and all tax credits, subsidies, grants and other incentives. In this response, please provide a detailed explanation of the calculation for Laidlaw's estimated IRR(s).

- a. Include in this response all evaluations, studies, reports, correspondence, e-mails, notes, presentation materials, cash-flow analyses, and work papers, and statements made to investors, partners, parent companies, creditors, and permitting authorities such as the Site Evaluation Committee concerning the profitability of the Laidlaw project.
- b. Indicate whether, and why, Laidlaw believes the terms of the PPA do not produce an IRR in excess of what is required for the project to be financed, and provide a reasonable rate of return to equity investors. Provide all calculations, work papers, and supporting documentation.
- c. If the terms of the PPA produce an IRR in excess of what is required for the project to be financed, please state Laidlaw's justifications for requiring this internal rate of return, and why it is in the public interest of PSNH's ratepayers to support that rate of return.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II . Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

The Commission has previously ruled that an intervenor who has not filed testimony is not subject to discovery. *Re Public Service Company of New Hampshire*, 89 NH PUC 226 (2004). Laidlaw has not filed any testimony but nevertheless has agreed to provide some information voluntarily, subject to it being "within the bounds of what is reasonable under the circumstances." See September 29, 2010 Prehearing Transcript at 111. This request does not meet that criteria. In this case, subjecting LLB to the type of expansive, burdensome and irrelevant discovery requests that have been propounded by other intervenors

whose stated concern is their competitive position would subvert the Commission's process and will not further the analysis that the Commission is statutorily charged with undertaking. The Commission is fully capable of conducting that assessment through the analysis performed by its own staff and can, where it determines it appropriate, pursue issues identified by any of the intervenors. LBB has worked closely with staff to address its concerns and provide it with information where Staff believed the information would advance the investigation being conducted by the Commission. While the independent power producers have been permitted to intervene, they do not have an independent, due process right to ask for whatever information they want, and obtain it from another intervenor who is also a competitor. See *Re Public Service Company of New Hampshire*. If competitors were permitted to use the regulatory process as a weapon to obtain such information from other competitors, it would have the perverse impact of chilling the development of renewable energy supplies, rather than encouraging it as RSA 362-F intended.

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.24

Date of Response: October 25, 2010

REQUEST: Are the prices in the PP A the lowest prices that will provide for the reasonable financing of the project? If not, please state the lowest prices that will provide for the reasonable financing of the project. Please explain your answer and provide the calculations, assumptions and work papers that were used to make this determination.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II . Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

The Commission has previously ruled that an intervenor who has not filed testimony is not subject to discovery. *Re Public Service Company of New Hampshire*, 89 NH PUC 226 (2004). Laidlaw has not filed any testimony but nevertheless has agreed to provide some information voluntarily, subject to it being "within the bounds of what is reasonable under the circumstances." *See* September 29, 2010 Prehearing Transcript at 111. This request does not meet that criteria. In this case, subjecting LLB to the type of expansive, burdensome and irrelevant discovery requests that have been propounded by other intervenors whose stated concern is their competitive position would subvert the Commission's process and will not further the analysis that the Commission is statutorily charged with undertaking. The Commission is fully capable of conducting that assessment through the analysis performed by its own staff and can, where it determines it appropriate, pursue issues identified by any of the intervenors. LBB has worked closely with staff to address its concerns and provide it with information where Staff believed the information would advance the investigation being conducted by the Commission. While the independent power producers have been permitted to intervene, they do not have an independent, due process right to ask for whatever information they want, and obtain it from another intervenor who is also a competitor. *See Re Public Service Company of New Hampshire*. If competitors were permitted to use the regulatory process as a weapon to obtain such information from other competitors, it would have the perverse impact of chilling the development of renewable energy supplies, rather than encouraging it as RSA 362-F intended.

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.25

Date of Response: October 25, 2010

REQUEST: Is the 20- year term of the PP A the shortest term that will support financing of the project? If not, please state the shortest term that will support financing. Please explain your answer and provide the calculations, assumptions and workpapers that were used to make that determination.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II . Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

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PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.26

Date of Response: October 25, 2010

REQUEST: Did Laidlaw negotiate or attempt to negotiate the sale of any or all of its energy and/or renewable energy certificates with any other purchaser? If not, please explain Laidlaw's decision not to do so. If so, please identify the other potential purchasers and the last bid and offer for each of these negotiations and provide all documents pertaining to said negotiation.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II. Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

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PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

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The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.27

Date of Response: October 25, 2010

REQUEST: Did Laidlaw receive any offers to negotiate the purchase of the project, inclusive of Laidlaw interest and or the Facility and/or PPA? If so, please describe the status of these negotiations, including the last bid and offer and provide all documents pertaining to said negotiation.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II . Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

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PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
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WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.28

Date of Response: October 25, 2010

REQUEST: Did Laidlaw expect a concession on the price of energy and/or RECs in return for the purchase option and/or the right of first refusal? Does Laidlaw believe that it received such a price concession, and if so, in what amount? Please provide the documents and calculation that were used to make this determination.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II . Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

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PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
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Date Received: October 20, 2010
Request No.: IPP LBB 2.29

Date of Response: October 25, 2010

REQUEST: Laidlaw announced on September 29, 2008 that it had reached agreement on the material terms of a contemplated 20-year power purchase agreement with PSNH. Please state the material terms agreed-to by that date. If the terms are different than those contained in the PP A presented to the commission for approval in this docket, please state how the terms differ, and describe the process pursuant to which the terms changed. Please provide all documents pertaining to the agreements referenced by Laidlaw on September 29, 2008.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II . Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

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Date Received: October 20, 2010
Request No.: IPP LBB 2.30

Date of Response: October 25, 2010

REQUEST: Laidlaw's interconnection request to the ISO-NE in February 2008 was for a 58.7 MW project. Its application to the Site Evaluation Committee in December 2009 was for a 70 MW project, while the PP A at Appendix A describes the project as having 64 MW capacity in winter and 61 MW capacity in summer. On October 1, 2010 Laidlaw increased its interconnection request to ISO-NE to 67.5 MW.

- a. What is the projected MW size of the Laidlaw Project?
- b. Does Laidlaw take the position that it is obligated to sell and PSNH is obligated to purchase all of the energy, capacity, and RECs produced by the Laidlaw Project or are these obligations limited to the energy, capacity and RECS that can be produced with 64 MW capacity in winter and 61 MW capacity in summer?
- c. Please explain the differences in the projected MW size of the Laidlaw project, including when Laidlaw first projected each of the different MW sizes noted above.
- d. Please produce all documents relating to these issues.

RESPONSE: Laidlaw objects to this data request because the Commission has previously ruled that an intervenor who has not filed testimony is not subject to discovery. *Re Public Service Company of New Hampshire*, 89 NH PUC 226 (2004). Laidlaw has not filed any testimony but nevertheless has agreed to provide some information voluntarily, subject to it being "within the bounds of what is reasonable under the circumstances." *See* September 29, 2010 Prehearing Transcript at 111. Notwithstanding this objection, Laidlaw provides the following information:

The projected MW size of the Laidlaw Project is 67.5 maximum net MW electric output per Laidlaw's Interconnection Request.

The parties' responsibilities are as set forth in the PPA. Under Section 5.1, "Subject to the terms and conditions of this Agreement, Seller shall sell and deliver and PSNH shall purchase and accept delivery of one hundred percent (100%) of the Products produced by the Facility." PSNH must pay for Capacity pursuant to Section 6.1.2(b). Section 1.7 defines "Capacity" to mean "the MW s of capacity that (i) has obtained a capacity supply obligation as a result of

participation and clearing in an ISO-NE administered forward capacity auction, reconfiguration capacity auction or any successor or other capacity supply auction, marketplace, or agreement and, (ii) as such, is receiving compensation pursuant to this capacity supply obligation by ISO-NE via the ISO-NE settlement process governed by the ISO-NE Documents." PSNH must pay for Energy pursuant to Section 6.1.2(a). Section 1.15 defines "Energy" to mean "electric energy, as such term is defined in the ISO-NE Documents, generated by the Facility which is delivered to PSNH at the Delivery Point." Pursuant to Section 6.1.2(c), NH Class I RECs to be purchased by PSNH are those delivered into the PSNH NEPOOL GIS account or upon other mutually agreeable conditions that certify that NH Class I RECs have been delivered to PSNH.

The differences in the projected MW size of the Laidlaw are attributable to the engineering being refined over time. Originally the ISO interconnection request was at 58.7 MW (66 MW nominal). The SEC Filing indicated 64 MW net (70 MW nominal). More recent engineering analysis suggests greater project efficiency can be achieved, thus the 67.5 MW net (75 MW nominal) now proposed. *See also* Laidlaw Response Staff LLB 1-9

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.31

Date of Response: October 25, 2010

REQUEST: Please provide any and all studies, analyses, reports, and/or projections of biomass fuel availability and cost for the Facility over the term of the PP A and for any shorter period, including all sensitivity analyses, conducted on behalf of Laidlaw or in its possession or control. Please include all testimony and exhibits submitted to the New Hampshire Site Evaluation Committee pertaining thereto.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II . Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

The Commission has previously ruled that an intervenor who has not filed testimony is not subject to discovery. *Re Public Service Company of New Hampshire*, 89 NH PUC 226 (2004). Laidlaw has not filed any testimony but nevertheless has agreed to provide some information voluntarily, subject to it being "within the bounds of what is reasonable under the circumstances." *See* September 29, 2010 Prehearing Transcript at 111. This request does not meet that criteria. In this case, subjecting LLB to the type of expansive, burdensome and irrelevant discovery requests that have been propounded by other intervenors whose stated concern is their competitive position would subvert the Commission's process and will not further the analysis that the Commission is statutorily charged with undertaking. The Commission is fully capable of conducting that assessment through the analysis performed by its own staff and can, where it determines it appropriate, pursue issues identified by any of the intervenors. LBB has worked closely with staff to address its concerns and provide it with information where Staff believed the information would advance the investigation being conducted by the Commission. While the independent power producers have been permitted to intervene, they do not have an independent, due process right to ask for whatever information they want, and obtain it from another intervenor who is also a competitor. *See Re Public Service Company of New Hampshire*. If competitors were permitted to use the regulatory process as a weapon to obtain such information from other competitors, it would

have the perverse impact of chilling the development of renewable energy supplies, rather than encouraging it as RSA 362-F intended.

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.32

Date of Response: October 25, 2010

REQUEST: If any question in this Set 2 to Laidlaw asks for any documents, studies, reports, workpapers, projections, analyses, reviews, evaluations, calculations, proformas, spreadsheets, forecasts, estimates or the like in the possession or control of Laidlaw, and any of the foregoing exist but are not in the possession or control of Laidlaw, please identify which of the foregoing exist and the name and addresses of the person or entity who has possession or control of it or them.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II. Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

The Commission has previously ruled that an intervenor who has not filed testimony is not subject to discovery. *Re Public Service Company of New Hampshire*, 89 NH PUC 226 (2004). Laidlaw has not filed any testimony but nevertheless has agreed to provide some information voluntarily, subject to it being "within the bounds of what is reasonable under the circumstances." See September 29, 2010 Prehearing Transcript at 111. This request does not meet that criteria. In this case, subjecting LBB to the type of expansive, burdensome and irrelevant discovery requests that have been propounded by other intervenors whose stated concern is their competitive position would subvert the Commission's process and will not further the analysis that the Commission is statutorily charged with undertaking. The Commission is fully capable of conducting that assessment through the analysis performed by its own staff and can, where it determines it appropriate, pursue issues identified by any of the intervenors. LBB has worked closely with staff to address its concerns and provide it with information where Staff believed the information would advance the investigation being conducted by the Commission. While the independent power producers have been permitted to intervene, they do not have an independent, due process right to ask for whatever information they want, and obtain it from another intervenor who is also a competitor. See *Re Public Service Company of New Hampshire*. If competitors were permitted to use the regulatory process as a weapon to obtain such information from other competitors, it would

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PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.33

Date of Response: October 25, 2010

REQUEST:

- a. Please state whether and explain how Laidlaw can financially close on the Facility financing transaction in the absence of a final interconnection study (or system impact study) from ISO-NE.
- b. When does Laidlaw expect to receive the final document noted in Q. 2-33(a)?
- c. Please provide all drafts of the documents noted in Q. 2-33(a) and if in your possession, the final of said document and the interconnection application noted in Mr. Large's testimony at page 3, line 3.
- d. Please state the total dollar amount of the cost to interconnect the Facility and all system upgrade costs. Identify whether said total costs are included in the Facility total cost of \$125 million noted in Dr. Shapiro's testimony at page 3, line 16.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II. Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

The Commission has previously ruled that an intervenor who has not filed testimony is not subject to discovery. *Re Public Service Company of New Hampshire*, 89 NH PUC 226 (2004). Laidlaw has not filed any testimony but nevertheless has agreed to provide some information voluntarily, subject to it being "within the bounds of what is reasonable under the circumstances." See September 29, 2010 Prehearing Transcript at 111. This request does not meet that criteria. In this case, subjecting LLB to the type of expansive, burdensome and irrelevant discovery requests that have been propounded by other intervenors whose stated concern is their competitive position would subvert the Commission's process and will not further the analysis that the Commission is statutorily charged with undertaking. The Commission is fully capable of conducting that assessment through the analysis performed by its own staff and can, where it determines it appropriate, pursue issues identified by any of the intervenors. LBB has worked closely with staff to address its concerns and

provide it with information where Staff believed the information would advance the investigation being conducted by the Commission. While the independent power producers have been permitted to intervene, they do not have an independent, due process right to ask for whatever information they want, and obtain it from another intervenor who is also a competitor. *See Re Public Service Company of New Hampshire*. If competitors were permitted to use the regulatory process as a weapon to obtain such information from other competitors, it would have the perverse impact of chilling the development of renewable energy supplies, rather than encouraging it as RSA 362-F intended.

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.34

Date of Response: October 25, 2010

REQUEST:

- a. Please state whether PJPD Holdings, LLC presently is in possession of all real property interests needed for the construction and operation of the Facility and any interconnection facilities.
- b. If PJPD Holdings, LLC does not have all the interests referenced in Q 2-34(a) above, please identify which interests remain to be acquired, the status of such acquisition, and the timetable for acquisition.
- c. If any of the interests referenced in Q 2-34(a) above are held by an entity or person other than PJPD Holdings, LLC please identify by name and address that person or entity, and state and explain, if any, the person's or entity's relationships to PJPD Holdings, LLC, Laidlaw, NEWCO or any affiliate of any of the foregoing.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II . Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

The Commission has previously ruled that an intervenor who has not filed testimony is not subject to discovery. *Re Public Service Company of New Hampshire*, 89 NH PUC 226 (2004). Laidlaw has not filed any testimony but nevertheless has agreed to provide some information voluntarily, subject to it being “within the bounds of what is reasonable under the circumstances.” See September 29, 2010 Prehearing Transcript at 111. This request does not meet that criteria. In this case, subjecting LBB to the type of expansive, burdensome and irrelevant discovery requests that have been propounded by other intervenors whose stated concern is their competitive position would subvert the Commission's process and will not further the analysis that the Commission is statutorily charged with undertaking. The Commission is fully capable of conducting that assessment through the analysis performed by its own staff and can, where it determines it appropriate, pursue issues identified by any of the intervenors. LBB has worked closely with staff to address its concerns and provide it with information where Staff believed the information would advance

the investigation being conducted by the Commission. While the independent power producers have been permitted to intervene, they do not have an independent, due process right to ask for whatever information they want, and obtain it from another intervenor who is also a competitor. See *Re Public Service Company of New Hampshire*. If competitors were permitted to use the regulatory process as a weapon to obtain such information from other competitors, it would have the perverse impact of chilling the development of renewable energy supplies, rather than encouraging it as RSA 362-F intended.

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.35

Date of Response: October 25, 2010

REQUEST:

- a. Does the PPA limit or impose any condition on Laidlaw's sale or other transfer of its interest in the PP A or the member interest (in whole or part) of Laidlaw as distinct from the transfer of ownership of the Facility noted in PPA Article 18? In your response please identify all PPA provisions that create such a limitation.
- b. Please identify whether Laidlaw has any agreements, memoranda, letters of intent or term sheets to sell or otherwise transfer any or all of its interest in the PP A or the member interests (in whole or part) of Laidlaw.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II . Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

The Commission has previously ruled that an intervenor who has not filed testimony is not subject to discovery. *Re Public Service Company of New Hampshire*, 89 NH PUC 226 (2004). Laidlaw has not filed any testimony but nevertheless has agreed to provide some information voluntarily, subject to it being "within the bounds of what is reasonable under the circumstances." *See* September 29, 2010 Prehearing Transcript at 111. This request does not meet that criteria. In this case, subjecting LLB to the type of expansive, burdensome and irrelevant discovery requests that have been propounded by other intervenors whose stated concern is their competitive position would subvert the Commission's process and will not further the analysis that the Commission is statutorily charged with undertaking. The Commission is fully capable of conducting that assessment through the analysis performed by its own staff and can, where it determines it appropriate, pursue issues identified by any of the intervenors. LBB has worked closely with staff to address its concerns and provide it with information where Staff believed the information would advance the investigation being conducted by the Commission. While the independent power producers have been permitted to intervene, they do not have an independent, due process right to ask for whatever information they want, and

obtain it from another intervenor who is also a competitor. *See Re Public Service Company of New Hampshire*. If competitors were permitted to use the regulatory process as a weapon to obtain such information from other competitors, it would have the perverse impact of chilling the development of renewable energy supplies, rather than encouraging it as RSA 362-F intended.

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.36

Date of Response: October 25, 2010

REQUEST: Has either Laidlaw or PSNH considered or evaluated the circumstances in which the Facility and Schiller Station Unit 5 may compete for biomass fuel? If so, please describe how Laidlaw and PSNH intend or propose to address such a situation and how it may impact PSNH ratepayers.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II. Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

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PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.37

Date of Response: October 25, 2010

REQUEST: Referencing the supplemental testimony of Louis T. Bravakis dated July 10, 2010 in SEC Docket No. 2009-02 at 3-4, Mr. Bravakis admits that the wood supply analysis that Laidlaw commissioned from LandVest was intended only to be an initial, high level planning tool and that "[p]eople familiar with how wood moves in today's markets" would recognize that no biomass facility would actually limit itself to using a 100 mile radius for fuel procurements. According to Mr. Bravakis, it has "always been [Laidlaw's] intention to conduct more detailed analyses at a later date." Have you conducted or commissioned a more detailed analysis of the Facility's fuel sources, availability, and/or costs? If so, please provide all such documents.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II . Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

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obtain it from another intervenor who is also a competitor. *See Re Public Service Company of New Hampshire*. If competitors were permitted to use the regulatory process as a weapon to obtain such information from other competitors, it would have the perverse impact of chilling the development of renewable energy supplies, rather than encouraging it as RSA 362-F intended.

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.38

Date of Response: October 25, 2010

REQUEST: Please state whether Laidlaw projects that the wood ash produced by the Facility will be suitable for use as a waste-derived product, and if so, which product or products. Please describe Laidlaw's plans for disposal of wood ash, state the revenues projected to be received and disposal costs expected to be incurred thereby, and produce any documents related to the disposition of wood ash.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II. Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

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PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.39

Date of Response: October 25, 2010

REQUEST: Please identify by name, title, and business address, and employer(s) every person involved in the negotiation, review, or evaluation of all draft and final term sheets, letters of intent pertaining to the PP A, and PP A and any document appended to or referred to therein on behalf of Laidlaw, NEWCO, PJPD Holdings LLC, Cate Street Capital, and any affiliates of any of the foregoing.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II . Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

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PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.40

Date of Response: October 25, 2010

REQUEST: Please provide a chart detailing the business, ownership, and governance relationships between Laidlaw, NEWCO, PJPD Holdings LLC, Cate Street Capital, and any affiliates of the foregoing. For each entity, please identify the persons or entities holding ownership interests and the percentage of that ownership interest; officers, directors, managers, and employees. For each individual or entity, please identify the individual's or entity's ownership or other interest in the PP A or interest, in fee simple or otherwise, in the Facility or the Facility Site.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II. Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

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PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.41

Date of Response: October 25, 2010

REQUEST: Please provide all documents containing statements made to investors, potential investors, financing entities, potential financing entities, insurance providers and potential insurance providers, buyers, and potential buyers, consultants, PSNH, PSNH affiliates, and insurance providers concerning the profitability of the Facility based upon the PP A or the benefits expected to be received from the PP A prior to or subsequent to its execution.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II. Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

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PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.42

Date of Response: October 25, 2010

REQUEST: Please provide all documents containing statements made to investors, potential investors, financing entities, potential financing entities, insurance providers and potential insurance providers, buyers, and potential buyers, consultants, PSNH, PSNH affiliates and insurance providers concerning the fair market value of the Facility, the PPA, or any lease of the Facility based upon the PPA or the benefits expected to be received from the PP A prior to or subsequent to its execution.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II . Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

The Commission has previously ruled that an intervenor who has not filed testimony is not subject to discovery. *Re Public Service Company of New Hampshire*, 89 NH PUC 226 (2004). Laidlaw has not filed any testimony but nevertheless has agreed to provide some information voluntarily, subject to it being “within the bounds of what is reasonable under the circumstances.” *See* September 29, 2010 Prehearing Transcript at 111. This request does not meet that criteria. In this case, subjecting LBB to the type of expansive, burdensome and irrelevant discovery requests that have been propounded by other intervenors whose stated concern is their competitive position would subvert the Commission's process and will not further the analysis that the Commission is statutorily charged with undertaking. The Commission is fully capable of conducting that assessment through the analysis performed by its own staff and can, where it determines it appropriate, pursue issues identified by any of the intervenors. LBB has worked closely with staff to address its concerns and provide it with information where Staff believed the information would advance the investigation being conducted by the Commission. While the independent power producers have been permitted to intervene, they do not have an independent, due process right to ask for whatever information they want, and obtain it from another intervenor who is also a competitor. *See Re Public Service Company of New Hampshire*. If competitors were permitted to use the regulatory process as a weapon to obtain such information from other competitors, it would

have the perverse impact of chilling the development of renewable energy supplies, rather than encouraging it as RSA 362-F intended.

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.43

Date of Response: October 25, 2010

REQUEST: Please provide all debt investors' "expressions of interest" as that term is used by Michael B. Bartoszek on page 6 of his testimony in SEC Docket No. 2009-02.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II . Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

The Commission has previously ruled that an intervenor who has not filed testimony is not subject to discovery. *Re Public Service Company of New Hampshire*, 89 NH PUC 226 (2004). Laidlaw has not filed any testimony but nevertheless has agreed to provide some information voluntarily, subject to it being "within the bounds of what is reasonable under the circumstances." *See* September 29, 2010 Prehearing Transcript at 111. This request does not meet that criteria. In this case, subjecting LLB to the type of expansive, burdensome and irrelevant discovery requests that have been propounded by other intervenors whose stated concern is their competitive position would subvert the Commission's process and will not further the analysis that the Commission is statutorily charged with undertaking. The Commission is fully capable of conducting that assessment through the analysis performed by its own staff and can, where it determines it appropriate, pursue issues identified by any of the intervenors. LBB has worked closely with staff to address its concerns and provide it with information where Staff believed the information would advance the investigation being conducted by the Commission. While the independent power producers have been permitted to intervene, they do not have an independent, due process right to ask for whatever information they want, and obtain it from another intervenor who is also a competitor. *See Re Public Service Company of New Hampshire*. If competitors were permitted to use the regulatory process as a weapon to obtain such information from other competitors, it would have the perverse impact of chilling the development of renewable energy supplies, rather than encouraging it as RSA 362-F intended.

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.44

Date of Response: October 25, 2010

REQUEST: Please provide all "comfort letters" as that term is used by Michael B. Bartoszek on page 1 of his supplemental testimony in SEC Docket No. 2009-02.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II. Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

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PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.45

Date of Response: October 25, 2010

REQUEST: Please provide the development agreement between Laidlaw and PJPD Holdings, LLC. and any related documents.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II . Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

The Commission has previously ruled that an intervenor who has not filed testimony is not subject to discovery. *Re Public Service Company of New Hampshire*, 89 NH PUC 226 (2004). Laidlaw has not filed any testimony but nevertheless has agreed to provide some information voluntarily, subject to it being “within the bounds of what is reasonable under the circumstances.” *See* September 29, 2010 Prehearing Transcript at 111. This request does not meet that criteria. In this case, subjecting LLB to the type of expansive, burdensome and irrelevant discovery requests that have been propounded by other intervenors whose stated concern is their competitive position would subvert the Commission's process and will not further the analysis that the Commission is statutorily charged with undertaking. The Commission is fully capable of conducting that assessment through the analysis performed by its own staff and can, where it determines it appropriate, pursue issues identified by any of the intervenors. LBB has worked closely with staff to address its concerns and provide it with information where Staff believed the information would advance the investigation being conducted by the Commission. While the independent power producers have been permitted to intervene, they do not have an independent, due process right to ask for whatever information they want, and obtain it from another intervenor who is also a competitor. *See Re Public Service Company of New Hampshire*. If competitors were permitted to use the regulatory process as a weapon to obtain such information from other competitors, it would have the perverse impact of chilling the development of renewable energy supplies, rather than encouraging it as RSA 362-F intended.

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
PETITION FOR APPROVAL OF POWER PURCHASE AGREEMENT
WITH LAIDLAW BERLIN BIOPOWER, LLC

DE 10-195

Laidlaw Berlin Biopower LLC's Responses to
The Wood-Fired Independent Power Producers Data Requests – Set #2

Date Received: October 20, 2010
Request No.: IPP LBB 2.46

Date of Response: October 25, 2010

REQUEST: If the Facility and/or Facility Site is transferred in the process of the stock or membership interest sale of the companies owning same, or of their respective parent companies, does Laidlaw take the position that PSNH may not exercise its right of first refusal pursuant to Article 7 of the PPA? Please explain.

RESPONSE: Laidlaw objects to this data request on the basis that it is vague, overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of information that is relevant in this proceeding. This proceeding is about whether the PPA is in the public interest under RSA 362-F:10, II. Laidlaw's positions during the period leading up to execution of the PPA and/or its understanding of various market or other information has no bearing on that question.

The Commission has previously ruled that an intervenor who has not filed testimony is not subject to discovery. *Re Public Service Company of New Hampshire*, 89 NH PUC 226 (2004). Laidlaw has not filed any testimony but nevertheless has agreed to provide some information voluntarily, subject to it being "within the bounds of what is reasonable under the circumstances." *See* September 29, 2010 Prehearing Transcript at 111. This request does not meet that criteria. In this case, subjecting LBB to the type of expansive, burdensome and irrelevant discovery requests that have been propounded by other intervenors whose stated concern is their competitive position would subvert the Commission's process and will not further the analysis that the Commission is statutorily charged with undertaking. The Commission is fully capable of conducting that assessment through the analysis performed by its own staff and can, where it determines it appropriate, pursue issues identified by any of the intervenors. LBB has worked closely with staff to address its concerns and provide it with information where Staff believed the information would advance the investigation being conducted by the Commission. While the independent power producers have been permitted to intervene, they do not have an independent, due process right to ask for whatever information they want, and obtain it from another intervenor who is also a competitor. *See Re Public Service Company of New Hampshire*. If competitors were permitted to use the regulatory process as a weapon to obtain such information from other competitors, it would have the perverse impact of chilling the development of renewable energy supplies, rather than encouraging it as RSA 362-F intended.