

STATE OF NEW HAMPSHIRE  
BEFORE THE  
PUBLIC UTILITIES COMMISSION

Public Service Company of New Hampshire

Petition for Approval of PPA with Laidlaw Berlin BioPower, LLC

Docket No. DE 10-195

**CITY OF BERLIN'S OBJECTION TO MOTIONS FOR REHEARING FILED BY  
EDREST PROPERTIES AND WOOD-FIRED IPPS**

**NOW COMES** the City of Berlin, ("the City") and objects to the Motion for Rehearing filed by Edrest Properties LLC ("Edrest") and the Motion for Rehearing filed by the Wood-Fired IPPs ("IPPs") and states in support therefore as follows:

1. RSA 541:3 provides, in relevant part:

Within 30 days after any order or decision has been made by the commission, any party to the action or proceeding before the commission, or any person directly affected thereby, may apply for a rehearing . . . specifying in the motion all grounds for rehearing, and the commission may grant such rehearing if in its opinion **good reason for the rehearing is stated in the motion.**

RSA 541:3 (emphasis added).

2. The motion for rehearing must "set forth fully every ground upon which it is claimed that the decision or order complained of is **unlawful or unreasonable.**" RSA 541:4 (emphasis added).
3. The decision to grant a motion for rehearing is discretionary; the PUC is not obligated to grant such a motion. See RSA 541:3 (providing that the commission "**may grant**" a rehearing if deemed necessary "in its **opinion**" (emphasis added)).
4. As an initial matter, Edrest's motion fails to allege that the PUC's Order is unlawful or unreasonable and must therefore be denied outright. See RSA 541:4.

5. Edrest's motion includes references to: (a) the authority of the PUC to rule upon the Power Purchase Agreement ("PPA") after year 2025; (b) the alleged (and unsubstantiated) impact on the wood supply; and (c) the alleged (and unsubstantiated) impact upon energy prices were all addressed by the PUC in its Order. Edrest fails to assert a reasonable basis to reopen these issues, which it had a full chance to argue, and in fact did argue, before the PUC during the extensive hearings held on this PPA.
6. Edrest's allegations that "changes" to the ownership structure and wood supplier will affect the PPA, such that further PUC review is necessary, are unsubstantiated. Edrest fails to explain why changes in Laidlaw's ownership structure or fuel supplier have any affect upon the Order and this proceeding beyond what has already been exhaustively argued before the PUC during the PPA hearings. These are issues which are jurisdictional to the SEC and which the SEC is addressing; there is no need for the PUC to reopen this matter.
7. The IPPs' motion fares no better. The IPPs' arguments regarding the 2025 "termination date" of the renewable portfolio standard were argued extensively during the PUC hearings on the PPA; and the PUC appropriately decided these issues in its Order. The IPPs merely raise the exact same arguments as they made during the hearings. Any claim by the IPPs that the additional Legislative history should be viewed as "new evidence" must fail since all such Legislative history was previously available to the IPPs yet they failed to raise this argument despite many days of hearings. There is, therefore, no basis for the PUC to reopen this matter.
8. Based upon Edrest's unsupported and irrelevant claims regarding the above "changes," and the IPPs' repetitive arguments which were already extensively addressed at the

hearings, it is apparent their true purpose in requesting a rehearing is to stall approval of PSNH's Power Purchase Agreement with Laidlaw Berlin BioPower and its successors for their own benefit.

9. What Edrest and the IPPs fail to mention in their Motions for Rehearing, is that reopening this matter, and thus stalling the approval of the PPA (for no valid reason), has huge impacts upon numerous other parties and risks the following:
  - a. Approximately 300 construction jobs at the peak of construction and 235 on average during the 27 month construction period;
  - b. Approximately 40 full time, direct, well-paying jobs once the facility is operational;
  - c. Over \$2 million in annual payroll to the area;
  - d. The creation of hundreds of logging and forestry jobs throughout the North Country;
  - e. The injection of approximately \$275 Million into Region's economy;
  - f. Significant increases in property tax revenue for City of Berlin;
  - g. Market Tax Credits that will result in millions of dollars in stimulus funds.
10. Edrest and the IPPs are well aware that delay will likely kill or at least curtail these substantial positive impacts. As the City has explained in previous filings, if construction does not commence soon, and at least no later than September, 2011, the Section 1603 grant funds may be lost and the existing New Market Tax Credits may be unclaimed, both of which are essential parts of the economics of this project.
11. The PUC held extensive hearings on the PPA and issued a lengthy, articulate and detailed Order. The PUC did not accept the PPA as presented, but rather conditionally approved

the PPA which required several changes. PSNH has timely resubmitted a revised PPA that conforms to the Order.

12. The PUC's detailed Order appropriately accounts for all of the issues raised by Edrest and the IPPs. The matter should not be reopened.

WHEREFORE, the City respectfully requests that the Commission:

- A. Deny the Motion for Rehearing filed by Edrest Properties LLC;
- B. Deny the Motion for Rehearing filed by the Wood-Fired IPPs; and
- C. Grant such other and further relief as the Commission deems just and equitable.

Respectfully submitted,  
**THE CITY OF BERLIN**

By its attorneys:

**DONAHUE, TUCKER & CIANDELLA, PLLC**

Date: 24 May 2011

By: /s/ Keriann Roman   
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Keriann Roman, Esq.  
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CERTIFICATE OF SERVICE

Pursuant to Rules Puc 203.02(2) and Puc 203.11, I hereby certify that on this 24<sup>th</sup> day of May 2011, I served copies of this Objection to those parties listed on the Service List and to the Office of Consumer Advocate.

/s/ Keriann Roman   
Keriann Roman, Esq.

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**SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED**

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

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**FILING INSTRUCTIONS:**

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

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

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

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