

THE STATE OF NEW HAMPSHIRE

SUPREME COURT

No. 2011-0348

Appeal of
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

AFFIDAVIT
OF
Richard M. Cyr

Richard M. Cyr, being first duly sworn and put upon oath, does hereby state:

(1) I am the Senior Vice President for Cate Street Capital, Inc. of One Cate Street, Suite 100, Portsmouth, New Hampshire 03801.

(2) Cate Street Capital is the developer of a proposed wood-fired generation facility planned for construction in Berlin, New Hampshire. The facility has been reviewed and approved by the New Hampshire Site Evaluation Committee in its Docket Nos. 2009-02 and 2011-01. A Purchase Power Contract ("PPA") entered into with Public Service Company of New Hampshire for the sale of the output of the facility was reviewed and approved by the New Hampshire Public Utilities Commission ("NHPUC") pursuant to RSA 362-F:9 in its Docket No. DE 10-195.

(3) The Appellants in this proceeding were granted intervenor status in the NHPUC proceeding despite objections to such participation. The Appellants have filed two appeals with this Court challenging the NHPUC's rulings in its proceeding.

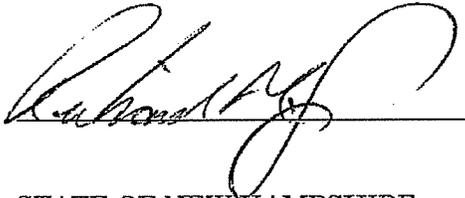
(4) The PPA approved by the NHPUC includes a provision conditioning the effectiveness of that contract on PSNH's receipt of a final, non-appealable NHPUC decision. This appeal lodged by the Appellants has blocked the PPA from taking effect. As long as this appeal continues, Cate Street cannot close on the financing necessary to begin construction of the Berlin project.

(5) The outstanding appeal has already caused significant financial harm to Cate Street and to the project. One example of such harm is that we have lost a \$9 million New Market Tax Credit allocation which resulted in a loss of \$2.42 million of equity in the project, directly related to the delay brought on by the appeal.

(6) If the closing gets further delayed, we will likely lose our existing engineering, procurement and construction contract with Babcock & Wilcox. We will then have to go out to bid for a new EPC contract, causing months of additional delays and likely higher prices. As the B&W contract was a condition of the N.H. Site Evaluation Committee's November 8, 2010, "Order and Certificate of Site and Facility with Conditions" issued in its Docket No. 2009-02, a reopening and further proceedings before that agency will likely be required in the event a new EPC contract is necessary. Additionally, the delay incurred by the filed appeal has already resulted in an increase in price of \$12,200,000, as the original EPC pricing was valid only until June 15, 2011.

(7) Finally, in addition to Cate Street's existing loss of \$2.42 million in equity as part of the New Market Tax Credit funding, a delay in closing beyond the end of August, 2011, will result in the loss of a to-be established \$2.75 million Community Benefit Fund which is being created as part of the New Market Tax Credit funding. This Fund has been designated to provide economic development for the North Country. \$2.25 million is intended to be allocated to Coös County for a community loan fund intended to benefit the community through the New Hampshire Business Finance Authority. The remaining one-half million dollars would be distributed to the City of Berlin, also for economic development purposes. These New Market Tax Credit funds have already been promised as part of the bankruptcy reorganization for Berlin's Isaacson Structural Steel, and will help retain the jobs of its' 150 to 200 employees. To keep Isaacson viable until the Community Benefits Fund comes available, Cate Street has already provided a half-million dollar bridge loan to Isaacson, which has also been approved by the U.S. Bankruptcy Court.

(8) The Appellants' contention that there is no need for urgency in addressing this appeal is incorrect. If this appeal proceeds on a normal schedule, such a delay would have disastrous results for the project, the North Country, and the State as a whole.



STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM

Subscribed and sworn to before me this 12th day of August 2011.



Notary Public



SERVICE LIST

No. 2011-0348

David J. Shulock, Esq. Olson & Gould, P.C. 2 Delta Drive, Suite 301 Concord, NH 03301-7426	Debra Howland Executive Director and Secretary NH Public Utilities Commission 21 S. Fruit Street, Suite 10 Concord, NH 03301-2429
Office of the Attorney General 33 Capitol Street Concord, NH 03301-6397	Suzanne Amidon, Esq. Edward N. Damon, Esq. NH Public Utilities Commission 21 S. Fruit Street, Suite 10 Concord, NH 03301-2429
Meredith A. Hatfield, Esq. Office of Consumer Advocate 21 S. Fruit Street, Suite 18 Concord, NH 03301	James Rodier, Esq. Clean Power Development 1500 A. Lafayette Road, No. 112 Portsmouth, NH 03801-5918
Keriann Roman, Esq. City of Berlin, Donahue Tucker & Ciandella, PLLC 225 Water Street Exeter, NH 03833	Christopher Boldt, Esq. City of Berlin Donahue Tucker & Ciandella PLLC 104 Congress Street, Suite 304 Portsmouth, NH 03801
Jonathan Edwards, <i>pro se</i> Edrest Properties LLC P.O. Box 202 Berlin, NH 03570	Angela O'Connor New England Power Generators Association 141 Tremont Street, 6 th Floor Boston, MA 02111