

THE STATE OF NEW HAMPSHIRE  
SUPREME COURT

NO. 2011-0348

Appeal by Petition of Bridgewater Power Company, L.P. et al.

INTERVENOR CITY OF BERLIN'S MOTION FOR EXPEDITED TREATMENT  
OF COURT'S REVIEW OF PETITIONERS' DISCRETIONARY APPEAL AND  
EXPEDITED REVIEW OF MOTION FOR SUMMARY DISMISSAL

NOW COMES the City of Berlin ("City"), a directly-affected party and an intervenor in the administrative proceedings below, and respectfully requests that this Honorable Court review the Petition for Appeal filed by the Petitioners, Bridgewater Power Co. et al. and the Motion for Summary Dismissal submitted by Public Service Company of New Hampshire ("PSNH") on an **expedited** basis and states in support thereof as follows:

1. On August 1, 2011, PSNH filed a Motion for Summary Dismissal in the above-named case. The City is filing a Joinder of that Motion and hereby seeks expeditious review of PSNH's Motion for Summary Dismissal.
2. The Petitioners comprise a group of private companies owning wood-fired electric generating facilities in New Hampshire, so-called independent power producers ("IPPs").
3. The basis of the IPPs' appeal concerns the Public Utilities Commission's ("PUC") approval of a contract, the Power Purchase Agreement ("PPA") between Public

Service of NH (“PSNH”) and Laidlaw Berlin BioPower (“Laidlaw”). See IPP Appendix at 165.

4. The PPA was submitted by PSNH pursuant to RSA 362-F:9 and involves a multi-year agreement for PSNH's acquisition of electric energy, capacity and renewable energy certificates<sup>1</sup> from Laidlaw's proposed wood-fired generating facility located in the City.
5. The City has recently entered into a Payment in Lieu of Taxes Agreement (“PILOT”) with Berlin Station LLC, a subsidiary of Laidlaw and the owner of the planned wood-fired facility. See July 27, 2011 Article from Berlin Daily Sun.
6. This PILOT would provide tens of millions of dollars in revenue to the City. See id.
7. This PILOT, however, is contingent upon Laidlaw’s wood-fired facility receiving financing by **September 1, 2011**. See id. It is not disputed that financing will not occur until it is understood that the PP A is final and enforceable. Therefore, while the PUC’s approval of the PPA is pending before this Court, the financing will not occur.
8. Accordingly, given the Motion for Summary Dismissal before this Court and the very real harm that the City would suffer in the event that the financing of the Laidlaw facility is delayed beyond September 1, the City respectfully asks this Court to conduct an expedited review of the Petitioners’ Appeal and PSNH's Motion for Summary Dismissal.
9. The City understands the limited time and resources of the Court, particularly at this difficult time. However, for this same reason, this project is of the utmost

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<sup>1</sup> See RSA 362-F:2, II

importance to the City, its residents, and taxpayers and any further unnecessary delay in financing will result in negative impacts upon the City – which could potentially be avoided. See January 11, 2011 Letter to Berlin Mayor Paul Grenier from Governor John H. Lynch, submitted to PUC docket on Jan. 14, 2011; see also January 28, 2011 Letter to PUC from Berlin Mayor Paul Grenier, public comment submitted to PUC docket on Jan. 28, 2011.

WHEREFORE, the City respectfully requests that this Honorable Court:

- A. Grant this request for expedited review of the Petitioners' Appeal Petition and PSNH's Motion for Summary Dismissal; and
- B. Grant such further relief as the Court finds fair and just.

Respectfully submitted,

THE CITY OF BERLIN

By its attorneys:

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Date: 1 August 2011

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### CERTIFICATION

I hereby certify that on August 1, 2011, I served the foregoing Motion for Expedited Review by mailing two copies thereof by first class mail, postage prepaid, to each of those counsel listed on the attached service list.

Keri Roman  
Keriann Roman

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