



**Public Service
of New Hampshire**

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The Northeast Utilities System

Linda T. Landis
Senior Counsel

February 17, 2010

Peter Demas, Esq.
Legal Coordinator
DES Legal Unit
29 Hazen Drive, PO Box 95
Concord, NH 03302-0095

Dear Attorney Demas:

On Friday, February 12, 2009, Public Service Company of New Hampshire ("PSNH") received notice from its contractor for the flue gas desulphurization project ("FGD Project") that a portion of the information provided to the Department of Environmental Services, Water Division ("DES") on December 23, 2009 should be considered Confidential Business Information ("CBI"). Specifically, the URS "Executive Summary of Anti-Degradation Study Prepared in Support of Station NPDES Permit Renewal NH0001465" and the associated "Calculation No. 29384-21-05-300-006" (Attachment 1) are the documents at issue.

URS contends that the contents of these documents "were derived through the use of proprietary formulae, know-how and trade secrets" and therefore review and analysis of the documents (as specified above) should be limited to PSNH staff and those with a need to know. PSNH agrees with URS that such proprietary information is protected from disclosure under RSA 485-A:18,III. (CBI is also subject to the terms of a confidentiality agreement between PSNH and URS.)

In addition, as you will have noted from the cover letter¹, the information provided to DES was a working document in a preliminary draft form and intended to be part of an iterative ongoing process with DES, as PSNH and its contractor consider various options in order to identify, with DES assistance, the most effective treatment technology for the FGD Project. This process will require additional testing, integration/correction of formulae and data, and adjustments in project direction.

Of serious concern, the information at issue (URS Executive Summary and Attachment 1) was also preliminary in the sense that it was incomplete as noted in our cover letter: "two sets of the

¹ See Letter from William H. Smagula, PSNH, to Director Stewart, dated December 23, 2009. "This report is being submitted as *confidential business information* at this time since we anticipate this evaluation will be an ongoing iterative process among the parties and require additional input and revision as appropriate."

raw data from the treatment pond outfall are not enclosed as the reports were commingled with extraneous data unrelated to the project"; unfortunately, some of this data was embedded with the other data in the analysis resulting in some superfluous and possibly incorrect values. As a result, we would like the opportunity to revise the information and resubmit the report in its entirety within 14 days.

This request for nondisclosure of proprietary information applies only to the URS Executive Summary and Attachment 1 as specified above; we are aware that in the cover letter we had requested the entire submittal be treated as CBI but have narrowed our request significantly. I understand DES had requested substantiation of our CBI request as soon as possible but I was unaware of a mandatory timeframe and the response from our contractor was not received until late Friday.

We appreciate your consideration of this request and plan on providing corrected information at an upcoming meeting with the Water Division. Please call me (634-2700) or Allan Palmer (634-2439) if you have any questions or concerns.

Yours truly,

A handwritten signature in black ink, appearing to read "Linda T. Landis".

Linda T. Landis
Senior Counsel

cc: Allan Palmer - PSNH