

Portland, ME Augusta, ME Concord, NH Boston, MA Washington, DC Bedminster, NJ Salem, MA

Matthew S. Warner mwarner@preti.com Direct Dial: 207.791.3067

July 7, 2014

Lisa Linowes The Windaction Group 286 Parker Hill Road Lyman, NH 03585

RE: Granite Reliable Power, LLC – SEC Docket No. 2014-03

Dear Lisa:

Enclosed please find Granite Reliable Power's Responses to Data Requests of The Windaction Group.

I have sent a hard copy of the response by mail today, and have sent an electronic copy to you copying Jane Murray, Executive Secretary of the New Hampshire Site Evaluation Committee.

Thank you for your attention to this matter. Please do not hesitate to contact me with any questions.

Sincerely,

2----

Matthew S. Warner

MSW:nmm

Attachments

Cc: Ms. Jane Murray Michael Iacopino, Esq. Peter Roth, Esq. Joshua Stayn, Esq. Harold Pachios, Esq.

THE STATE OF NEW HAMPSHIRE SITE EVALUATION COMMITTEE

)

Responses of Granite Reliable Power, LLC To Data Requests of Windaction Group

GRANITE RELIABLE POWER, LLC'S RESPONSES TO THE DATA REOUESTS OF WINDACTION GROUP

Granite Reliable Power, LLC (Granite) hereby objects and responds to the Data Requests of the Windaction Group ("Windaction"), served by Windaction on June 5, 2014.

GENERAL OBJECTIONS

Granite makes the following general responses and objections ("General Objections") to each Request propounded by Windaction. These General Objections are hereby incorporated into each specific response. The assertion of the same, similar or additional objections or partial responses to individual requests does not waive any of Granite's General Objections.

1. Granite provides these objections and responses to the best of its current knowledge. Discovery or further investigation may reveal additional or different information warranting amendment of these objections and responses. Granite reserves the right to produce at the hearing and to make reference to any evidence, facts, documents, or information not discovered at this time, omitted through good-faith error, mistake, or oversight, or the relevance of which Granite has not presently identified.

2. By responding to these Requests, Granite does not concede the relevance or materiality of any of the Requests or of the subjects to which it refers. Granite's responses are made subject to, and without waiving any objections as to the competency, relevancy,

materiality, privilege, or admissibility of any of the responses, or of the subject matter to which they concern, in any proceeding in this action or in any other proceeding.

3. Granite objects to any Request to the extent that it seeks information that is protected from disclosure by the attorney-client privilege, the attorney work product doctrine, the joint defense or common interest privilege, or any other applicable privilege, doctrine, or discovery immunity. The inadvertent production by Granite of information protected from disclosure by any such privilege, doctrine, or immunity shall not be deemed a waiver by Granite of such privileges or protections.

4. Granite objects to any Request to the extent it is premature and/or to the extent that it: (a) conflicts with any applicable rule; (b) seeks information and/or responses that are dependent on the Site Evaluation Commission's view of Granite's proposed Amendment; and/or (c) seeks information and/or responses that are dependent on depositions and documents that have not been taken or produced.

5. Granite objects to each Request as overbroad and unduly burdensome to the extent that it calls for information that is neither relevant to the claims or defenses of the parties nor reasonably calculated to lead to the discovery of admissible evidence.

6. Granite objects to each Request to the extent that it would impose a duty on Granite to undertake a search for or an evaluation of information, documents, or things for which Windaction is equally able to search for and evaluate. In particular, Granite objects to each Request to the extent that it seeks information or documents that are publicly available.

7. Granite objects to the requests to the extent they would require Granite to draw a legal conclusion or contention to make a proper response.

 Granite objects to any Request to the extent that it purports to require identification of oral communications. Such Request is overbroad, vague, ambiguous, and unduly burdensome.

9. Granite objects to the Requests to the extent they seek information that is not in the possession, custody, or control of Granite, and/or purport to call for any description of documents that Granite no longer possesses and/or was under no obligation to maintain.

10. Granite objects to the requests to the extent they are not limited in time and seek information for periods of time that are not relevant to any claim or defense.

11. Granite's objections as set forth herein are made without prejudice to Granite's right to assert any additional or supplemental objections.

OBJECTIONS AND RESPONSES TO WINDACTION'S REQUESTS

Subject to the foregoing qualifications and General Objections and the specific objections made below, Granite objects and responds to Windaction's Requests as follows:

Request #1:

What date was the project placed in service?

Response to Request #1:

Subject to and incorporating its General Objections, Granite responds that the Granite Reliable Power Windpark sited in Coos County, New Hampshire was placed into service on December 15, 2011.

Request #2:

In news reports from January 2013, Brookfield state [sic] that the ISO-New England had curtailed output to 45.835 megawatts. Is curtailment still in effect?

Response to Request #2:

Granite objects to this Request as overbroad, irrelevant to the subject matter of Docket No. 2014-03 which is a road widening, and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and incorporating its General Objections and its specific objections, Granite responds that curtailment is not in effect.

Request #3:

At the time of failures in 2012 were all turbines operating at half-speed or were only half of the turbines operating? In general, how was the reduced output achieved?

Response to Request #3:

Granite objects to this Request as overbroad, irrelevant to the subject matter of Docket No. 2014-03 which is a road widening, and not reasonably calculated to lead to the discovery of admissible evidence. Granite objects to this Request as vague and ambiguous. Granite objects to this Request on the grounds that it requires the adoption of an improper assumption.

Subject to and incorporating its General Objections and its specific objections, Granite responds that there were no failures of the Granite Windpark turbines in 2012. At the time Granite replaced turbine gearboxes due to defective bearing cages, all turbines were operating at full speed. In general, when Granite is required to reduce output, it does so electronically from the Windpark's operations center.

Request #4:

Mr. Cyr states that Vestas replaced the gearboxes in 6 of the 33 turbines. Has Vestas informed the project of the likelihood of the remaining turbines experiencing the same type of failure?

Response to Request #4:

Granite objects to the phrases "informed the project" and "of the likelihood of the remaining turbines experiencing the same type of failure" as vague and ambiguous. Granite objects to the extent that the Request seeks confidential commercial and financial information of third parties exempt from public disclosure under the New Hampshire Right to Know Act, RSA 91-A:5, IV, and SEC Site Rule 202.24(d).

Subject to and incorporating its General Objections and its specific objections, Granite responds that it replaced the gearboxes in 6 of the 33 turbines due to a defective bearing cage. The turbine manufacturer Vestas informed Granite that the manufacturer of the gearboxes had determined that the remaining 27 gearboxes would not require replacement because they did not contain the defective bearing cage.

Request #5:

Please provide the dates when the wind turbines were shut down to allow for the gearboxes to be replaced.

Response to Request #5:

Granite objects to the phrase "when the wind turbines were shut down" as vague and ambiguous. Subject to and incorporating its General Objections and its specific objection, Granite responds that the following turbines were shut down to allow for the gearboxes on the Granite Windpark turbines to be replaced:

<u>Turbine</u>	Date
T2	August 6, 2012
T7	October 4, 2012
T10	August 14, 2012
T23	September 19, 2012
T28	August 26, 2012
T31	September 24, 2012

Request #6:

During the dates when the turbines were shut off, what post-construction environmental studies were occurring including, but not limited to bird/bat mortality studies?

Response to Request #6:

Granite objects to the phrase "when the turbines were shut off" as vague and ambiguous. Granite objects to this Request as overbroad, irrelevant to the subject matter of Docket No. 2014-03, and not reasonably calculated to lead to the discovery of admissible evidence. Granite objects to the extent this Request seeks information outside of Granite's possession, custody, or control.

Subject to and incorporating its General Objections and its specific objections, Granite responds that it has performed no such studies and that the only studies occurring were those studies required by Granite's Certificate of Site and Facility.

Request #7:

Has the project experienced ice throws where ice from one turbine damaged another turbine at the site?

Response to Request #7:

Granite objects to this Request as overbroad, irrelevant to the subject matter of Docket No. 2014-03, and not reasonably calculated to lead to the discovery of admissible evidence as it does not request information related to the proposed road widening and related revegetation at Granite Windpark.

Subject to and incorporating its General Objections and its specific objections, Granite responds that it is unaware of any instances of ice falling or being thrown from one wind turbine at the Granite Windpark and causing damage to another wind turbine at the Granite Windpark.

Request #8:

Provide a copy of the original re-vegetation plan.

Response to Request #8:

Granite objects to the phrase "original re-vegetation plan" as vague and ambiguous. Subject to and incorporating its General Objections and its specific objection, Granite will produce the original December 2010 High Elevation Restoration Plan for Granite Windpark.

Request #9:

Provide a list of all material revisions to the original re-vegetation plan since it was written. Include all parties outside of GRP LLC who were consulted and who signed off on any revisions to the original re-vegetation plan.

Response to Request #9:

Granite objects to the phrases "original re-vegetation plan" and "since it was written" and "material revisions" as vague and ambiguous. Granite object to this Request to the extent it (1) seeks information that requires the disclosure of information and documents protected from disclosure by the attorney-client privilege, work product doctrine, or any other applicable privilege, doctrine, or immunity, or (2) seeks documents that can be easily obtained by Windaction, are already in Windaction's possession, or are publicly available.

Subject to and incorporating its General Objections and its specific objections, Granite responds that the only material revision to the High Elevation Restoration Plan (provided in response to Request #8) is the Revised High Elevation Restoration Plan incorporated into the Amendment to the High Elevation Mitigation Settlement Agreement and dated March 3, 2014. To create the Revised High Elevation Restoration Plan, Granite consulted with NHF&G and AMC, the two signatories to the High Elevation Mitigation Settlement Agreement Agreement which incorporates the Revised High Elevation Restoration Plan, and New Hampshire Department of Environmental Services.

Request #10:

Provide the width(s) that roads above 2700 feet but not subject to the High Elevation Mitigation Settlement Agreement have been re-vegetated back to since construction was completed?

Response to Request #10:

Granite objects to this Request as overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it is not limited to facts concerning the proposed road widening and revegetation within the High Elevation Restoration area at Granite Windpark.

Subject to and incorporating its General Objections and its specific objections, Granite responds that vegetation is established and is continuing to become established on the roads above 2,700 feet which are not subject to the High Elevation Mitigation Settlement Agreement, and that Granite has not measured the width of these roads.

Request #11:

Please provide the number of times the roads subject to the High Elevation Mitigation Settlement Agreement have been re-vegetated, the period of disturbance and the timeframe when re-vegetation was complete.

Response to Request #11:

Granite objects to the phrases "period of disturbance" and "the timeframe" as vague and ambiguous. Subject to and incorporating its General Objections and its specific objection, Granite responds that it began re-vegetating the roads in mid-June 2012. Re-vegetation is an ongoing and continuous process. Granite has re-seeded multiple portions of the roads on multiple occasions in an effort to improve stand density, closely monitored growth in the seeded areas, and initiated further grass seeding efforts following maintenance events which occurred in August 2012 and July 2013. Granite also replaced trees found to be dead in the Spring of 2014.

Request #12:

Explain how the terms of a proposed alternative re-vegetation plan provides similar or greater benefits than the original plan?

Response to Request #12:

Granite objects to the extent that the Request seeks information that is already in Windaction's possession, or is publicly available in this regulatory proceeding.

Subject to and incorporating its General Objections and its specific objections, Granite responds that Granite refers Windaction to the pre-filed testimony of Mr. Cyr and Mr. Phillips and Dr. Kimball which indicates that the best way to keep the Project in good working order, to foster meaningful growth of re-planted vegetation, and to protect the project's wildlife habitats is to permanently widen the roads, and to re-vegetate in other areas of need within the high elevation restoration area.

Granite further states that the proposed amendment will allow vegetation to flourish uninterrupted and therefore more robustly. In addition, the proposed amendment to the High Elevation Restoration Plan incorporates Appalachian Mountain Club's suggestion to not plant grass and to use straw mulch in lieu of hay mulch to temporarily stabilize project surfaces, so as to protect the pine martin population.

Request #13:

Is the project still under a manufacturer's warranty? How many years will the project remain under warranty?

Response to Request #13:

Granite objects to this Request as overbroad, irrelevant to the subject matter of Docket No. 2014-03, and not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and incorporating its General Objections and specific objections, Granite responds that the Granite Windpark is not currently under a manufacturer's warranty.

<u>Request # 14:</u>

Does the warranty make statements pertaining to re-vegetation of the roads or turbine pads?

Response to Request # 14:

Granite objects to the phrase "pertaining to" as vague and ambiguous. Granite objects to this Request as overbroad, irrelevant to the subject matter of Docket No. 2014-03, and not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and incorporating its General Objections and specific objections, Granite responds that Granite Windpark is not currently under a manufacturer's warranty.

Request #15:

Explain the location of the four areas on the ridgeline where the cranes can be assembled. Are these locations all within the area subject to the High Elevation Mitigation Settlement Agreement?

Response to Request #15:

Granite objects to the phrases "the ridgeline" and "the cranes" as vague and ambiguous. Granite objects on the ground that the Request fails to identify any geographic parameters. Granite objects to the extent that the Request seeks information that is already in Windaction's possession, or is publicly available in this regulatory proceeding. Subject to and incorporating its General Objections and specific objections, Granite responds that Attachment 2—Restoration Drawing No.'s R299, R300, R301, R302, R303, and R304 to the Revised High Elevation Restoration Plan dated March 3, 2014 depict the areas, all of which are subject to the High Elevation Mitigation Settlement Agreement, level enough to allow assembly of a crane. Granite clarifies further by providing the following:

Turbine Serviced	Crane Assembly Point
<u>T8</u>	Station 191.00 to the backside of the pad
<u>T9</u>	Station 174.00 to 177.00
T10, T11, T12	Station 161.00 to 166.00
T13, T14, T15	Station 120.00 to 124.00

Request #16:

Is the project utilizing the Goldhofer or equivalent to deliver large components, including unassembled crane components, to the ridgelines?

Response to Request #16:

Granite objects to the phrase "the Goldhofer or equivalent" as vague and ambiguous. Granite objects on the ground that the Request fails to identify any timeframe parameters. Granite objects to this Request as overbroad, irrelevant to the subject matter of Docket No. 2014-03, and not reasonably calculated to lead to the discovery of admissible evidence.

Subject to and incorporating its General Objections and specific objections, Granite responds that the project is not using a Goldhofer or equivalent to deliver large components, including unassembled crane components, to the ridgelines.

Request #17:

Is there a safety plan on file with the Committee? Does the safety plan place requirements on the project regarding road widths?

Response to Request #17:

Granite objects to the phrase "the Committee" as vague and ambiguous. Granite objects to the extent that the Request seeks information that (1) is already in Windaction's possession, or is publicly available in this and/or any other regulatory proceeding, and (2) is outside of Granite's personal knowledge, possession, custody, or control.

Subject to and incorporating its General Objections and specific objections, Granite responds that it is unaware of a safety plan on file with the Committee. To Granite's knowledge, road widths are not mentioned in any safety plan for Granite Windpark.

Request #18:

Dr. Kimball states that habitat fragmentation has contributed to increased predation on sensitive species. How does widening the road 'ameliorate' the threat? Won't the remaining, now wider roads still provide for 'linear prey rodent habitat corridors?'

Response to Request #18:

Granite objects to this Request on the grounds that the Request as phrased improperly characterizes Dr. Kimball's pre-filed testimony and requires the adoption of an improper assumption. Granite objects to this Request to the extent (1) it would require Granite to draw a legal conclusion to respond; (2) it seeks information that is already in Windaction's possession, or is publicly available in this and/or any other regulatory proceeding; and (3) is outside of Granite's personal knowledge, possession, custody, or control.

Subject to and incorporating its General Objections and specific objections, Granite responds that Dr. Kimball's pre-filed testimony indicated that the repeated disruption of the

roadside vegetation and reseeding with erosion control grass forms linear prey rodent habitat corridors. Granite's proposed Amendment will allow trees to fully mature, creating high elevation habitats more secure from predators. The Amendment will also stop the planting of grass seed at the project so as to discourage the presence of predators associated with high elevation grasses.

<u>Request #19:</u>

Is the benefit of the proposed plan more a function of the type of vegetation to be used? <u>Response to Request #19:</u>

Granite objects to this Request as vague and ambiguous. Granite objects to this Request to the extent it would require Granite to draw a legal conclusion to respond. Granite objects to this Request on the grounds that, in substance, it is identical to Request No. 12.

Subject to and incorporating its General Objections and specific objections, Granite responds that the benefit of the proposed amendment to the High Elevation Restoration Plan is to create a practical and environmentally sustainable way to re-vegetate the roadway while still allowing for maintenance of the turbines.

Request #20:

Mr. Phillips states that the roads will be horizontally realigned. Will roads that are not subject to the High Elevation Mitigation Settlement Agreement also be realigned?

Response to Request #20:

Granite objects to this Request as overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it is not limited to facts concerning the proposed road widening and revegetation within the High Elevation Restoration area at Granite Windpark.

Subject to and incorporating its General Objections and specific objections, Granite responds that the roads on Mt. Kelsey must be horizontally realigned to accommodate vehicles required for certain necessary future maintenance and to better accomplish the objectives of high elevation habitat restoration. Granite has no plans at present for the horizontal realignment of roads that are not subject to the High Elevation Mitigation Settlement Agreement.

Request #21:

Provide an electronic copy of the Alteration of Terrain permit application or equivalent describing the detailed project changes as presented to and reviewed by DES.

Response to Request #21:

Granite objects to this Request as vague and ambiguous. Granite objects to the extent that the Request seeks information that is already in Windaction's possession, or is publicly available in this and/or any other regulatory proceeding.

Subject to and incorporating its General Objections and specific objections, Granite responds that the NHDES has received the proposed amendment to the High Elevation Restoration Plan that was filed as <u>Exhibit A</u> to Granite's "Motion to Amend the Certificate of Site and Facility Granted in Docket No. 200S-04" which was filed with the NHDES on March 11, 2014.

Respectfully submitted,

GRANITE RELIABLE POWER, LLC

By its attorneys

PRETI FLAHERTY BELIVEAU & PACHIOS, LLP

6

Harold C. Pachios and Matthew S. Warner and Sigmund D. Schutz (NH Bar No. 17313)

Preti Flaherty Beliveau & Pachios LLP P.O. Box 1318 57 North Main Street Concord, NH 03302-1318

Dated: July 7, 2014

High Elevation Restoration Plan

The High Elevation Restoration Plan consists of three components:

- 1. Minimization of temporary and permanent disturbance
- 2. Restricted access
- 3. Stabilization and re-vegetation with native species

Each of these components is detailed below. The plan draws from, and is in compliance with, permit conditions and drawings, the High-Elevation Mitigation Settlement Agreement, and the comment and response logs appended to the Alteration of Terrain permit. The plan applies to construction in areas with an elevation of 2,700 feet or higher.

Minimization of disturbance

Limits of tree clearing have been reduced from the permitted locations as shown on the drawings to match the approximate extent of grading. Grading of roads, turbine assembly areas, truck turnarounds, and crane pads will be designed to the minimum disturbance necessary to complete the construction. Permanent disturbance will be minimized by reducing the width of the permanent access roads on Mt. Kelsey from 34 feet to 12 feet following construction.

Restriction of Worker and Public Access

Identification of high elevation conservation areas will be included in construction crew training. Access to high elevation conservation areas will be restricted throughout construction.

Three permanent access gates will be installed on standard-width access roads below 2,700 feet in elevation. Therefore, access to each turbine string will be restricted with a permanent gate as follows:

- Dixville Peak and Fishbrook will have one gate each
- A single gate will control access to Owlhead and Mt. Kelsey

Because the gates will be installed on sections of road that will not be reduced in size until after erection, permanent gates will be installed during initial road construction. The gates will be posted with signs indicating "No Public Access Beyond This Point." The permanent conservation area on Mt. Kelsey will be delineated and clearly marked during construction with signs indicating "Conservation Area, Do Not Enter."

1

Final August 2010

Stabilization and Re-vegetation

The areas of road that are restored and any extension of ground that had been graded to match the roadway to the existing grades will be re-vegetated with grass and seedlings, using endemic species such as spruce and fir.

Grading

The attached drawing, High Elevation Access (> 2,700 feet) Road Restoration Details, provides a cross section view of a typical access road during construction phase and as restored following construction. Soil removed for construction phase will be stockpiled, to the extent possible, and replaced at a minimum depth of four inches for restoration. Supplemental native soils will be procured from local construction projects or suppliers, if needed.

Soil Preparation

The construction phase road width will be 34 feet and on Mt. Kelsey, the post-construction road width will be 12 feet. Consequently, 22 feet of roadway will be restored. To provide a small setback from the post-construction road for tree growth, the seedling zone will be approximately 17 feet. Soil tests will be performed to support fertilizer specifications. The minimum appropriate soil amendments to establish vegetation and seedlings will be used in order to address storm water contamination concerns. The soil test results; the name, brand, and nutrient content (e.g., nitrogen, phosphorous, and potassium) of the specified fertilizer; and the application rates for lime and fertilizer will be provided to DES within 30 days of receiving a request from DES.

Seedlings for Restoration

The attached drawing, High Elevation Access (> 2,700 feet) Road Restoration Details, provides details for establishing tree seedlings for access road restoration. In general, the following seedling species (3 to 4 year maturity, depending on availability) will be mulched in within the seedling zone at a combined density of approximately seven seedlings per 100 linear feet of road:

- Balsam fir
- Red spruce

Seedlings will be planted prior to grass seeding.

Final August 2010

Seeding for Stabilization

Seeding requirements and specifications were discussed in the NH Department of Environmental Services (NH DES) response on April 27, 2009 to public comments regarding Section 401 Water Quality Certification (WQC # 2008-004). Replying to Comment A1, which discussed restoration at high elevations (> 2,700 feet), the NH DES stated the Applicant had consulted with the DES Alteration of Terrain Bureau and the New Hampshire Department of Resources and Economic Development, Division of Forests and Lands, and Natural Heritage Bureau regarding appropriate soil stabilization techniques that would not inhibit natural regeneration in the high elevation ecosystems.

In general, native grasses will be seeded and mulched within the restoration zone after seedlings have been planted. Care will be taken to avoid seeding within seedlingmulched areas. Agreed upon seeding specifications are shown on the attached High Elevation Access (> 2,700 feet) Road Restoration Details and includes only the following grass and legume species:

- Aroostook rye
- Sheep fescue
- Hard fescue
- Red fescue
- Canada blue grass
- Tufted hairgrass
- Birdsfoot treefoil

Monitoring

During construction, the Environmental Monitor will include qualitative checks on planted and seeded areas during inspections and determine the need for reseeding or replanting. Successful grass stabilization will be 85% seed germination.

Following construction, the operator GRP will provide a biennial monitoring of seedling survival for two years. Successful tree establishment will be a 75% survival rate.

