

**THE STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE**

_____)	
Motion of Granite Reliable Power, LLC,)	
To Amend Certificate of Site)	Docket No. 2014-03
And Facility with Request for)	
Expedited Relief)	
_____)	

**EMERGENCY EX PARTE MOTION OF COUNSEL FOR THE PUBLIC
TO AMEND PROCEDURAL SCHEDULE**

Counsel for the Public, by his attorneys, the Office of the Attorney General, hereby moves the Committee for entry of an order, pursuant to RSA 162-H:4 and 10 for an order amending the Procedural Schedule entered in this case to provide for additional time for Counsel for the Public’s expert to conduct necessary investigation and write a report, and also to provide an opportunity for an in person technical session with Kenneth Kimball. In support hereof, Counsel for the Public represents as follows:

1. On March 12, 2014, Granite Reliable Power (“GRP”) moved the Committee to amend its certificate.
2. On May 14, 2014, the Presiding Officer entered the Procedural Order.
3. Among the deadlines scheduled was the date of the technical session, the date by which GRP had to provide follow up data, and the date for the testimony of Counsel for the Public’s expert.
4. Kenneth Kimball did not appear for the technical session without excuse, agreement of the parties, or any order allowing telephonic participation.
5. GRP did not provide the follow up responses to data requests from the technical session in a timely manner, including something as simple as a definitive response

to the request for a site visit to the facility. It was not until August 5, 2014, that GRP provided the parties a readable set of plans showing the changes they propose.

6. As a result, Counsel for the Public's expert is unable to complete his report and testimony prior to the August 8, 2014 deadline provided in the order.

7. This proceeding is not an application for a certificate to which the time frames of RSA 162-H:6-a or 7 apply.

8. Provided that GRP provides complete responses to the tech session data requests, and Mr. Kimball will physically attend a tech session (assuming his testimony is not stricken as we have requested), Counsel for the Public believes that his expert could provide his testimony within 2 weeks of the later to occur of the site visit and the proposed Kimball tech session. It is likely that this would, however, require moving the rest of the dates, including the hearing, out as well.

9. Counsel for the Public sought the assent of Attorney Pachios, Ms. Linowes, and Mr. Samson to the relief sought herein. Ms. Linowes assents. No one else responded.

10. **Waiver of Rules.** Because of the shortness of time and the procedural nature of the relief requested, the Presiding Officer should waive the rules and grant this request on an emergency ex parte basis without waiting for an objection by any other party. This request will not disrupt the orderly resolution of the case – the orderly procedure in the Procedural Order was already disrupted by GRP's non-compliance with it and its inability to have Mr. Kimball appear at the tech session. The public interest will be met by waiving the rules because Counsel for the Public seeks to submit testimony of an expert who was retained to analyze the conservation benefits and costs of GRP's amendments.

WHEREFORE, Counsel for the Public respectfully requests that the Committee enter an order adjusting the procedural schedule to require a site visit, a technical session for Mr. Kimball, and setting the deadline for filing the testimony of Dr. Kilpatrick to occur two weeks from the later of the site visit or the Kimball tech session, and granting such other and further relief as may be just.

Respectfully submitted,

COUNSEL FOR THE PUBLIC

By his attorneys

JOSEPH A. FOSTER
ATTORNEY GENERAL



Peter C.L. Roth
Senior Assistant Attorney General
Environmental Protection Bureau
33 Capitol Street
Concord, New Hampshire 03301-6397
Tel. (603) 271-3679

Certificate of Service

I, Peter C.L. Roth, do hereby certify that I caused the foregoing to be served by first class mail postage prepaid upon each of the parties on the attached Service List.

Dated: August 5, 2014

/s/ Peter C.L. Roth
Peter C.L. Roth