

**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)	
_____)	

**OBJECTION OF COUNSEL FOR THE PUBLIC
TO MOTION FOR IN CAMERA REVIEW**

Counsel for the Public, Peter C.L. Roth, by his attorneys, the Office of the Attorney General, hereby objects to Granite Reliable Power’s Motion for In Camera Review To Determine Discoverability of its Safety Plan (the “Motion”). Counsel for the Public objects because the Motion seeks the wrong relief to the problem and because the Safety Plan ought to be provided. *See* N.H. Admin. R. Site 202.01(c) (presiding officer can “admit” or “exclude” evidence in “adjudicative proceedings”); 202.12(b) (presiding officer shall prescribe discovery methods in prehearing order and the means for resolving discovery disputes).¹ The proper method would be to seek an amendment to the Procedural Order to relieve GRP from the terms of ¶ 7 or to have it provide means for resolving discovery disputes.

The Motion erroneously suggests that Counsel for the Public originally sought the Safety Plan document at the technical session, and based on that accuses Counsel for the Public of “broadening the scope of the proceeding in order to relitigate issues addressed in the original hearing, ...calculated to make the proceeding more burdensome, lengthier, and more expensive.” Motion ¶ 6; *but see* Transcript, 7/24, at 116-17 (request made by Ms.

¹ The Procedural Order is silent on means for resolving discovery disputes.

Linowes). Such false and needlessly inflammatory accusations should have no place in the Motion.

However, it is now apparent that GRP has no claim of confidentiality or secrecy of the Safety Plan, and the Motion does not even hint at such a claim and therefore Counsel for the Public now believes that the public has a right to know the contents of the Safety Plan. Now that it is in the hands of the Committee it ought to be produced. *See Decision*, dated July 15, 2009, at 57; *Order*, dated July 15, 2009, at 5 (requiring that GRP have a “detailed safety and access plan”); *accord Lamy v. NHPUC*, 152 N.H. 106 (2005); RSA 91-A:4. In camera review without a claim of confidentiality is not an appropriate remedy.

In addition, the Safety Plan could be relevant to or lead to the discovery of admissible evidence about GRP’s desire to enlarge the road width because it may contain terms which require certain grades, curve radii, travel path width, and maintenance requirements necessary for access to the facility by emergency personnel and vehicles. Finally, GRP made no objection to the production of the Safety Plan at the technical session. Instead, GRP and its attorney agreed to look into whether one existed and “add it to your data requests coming out of this session”. Transcript, at 117. The objection to relevance for production was thus waived.

Respectfully submitted this 7th day of August 2014,

PETER C.L. ROTH
COUNSEL FOR THE PUBLIC

By his attorneys

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Certificate of Service

I, Peter CL Roth, do hereby certify that on August 7, 2014, I caused a true copy of the foregoing to be served upon the parties in the case by submitting it to the Committee's Clerk for electronic distribution by her to the Service List.

Dated: August 7, 2014

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