

**STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE**

Docket No. 2015-07

**Joint Petition of Granite Ridge Energy, LLC and Calpine Granite Holdings, LLC
For Approval to Transfer Membership Interests
Under RSA 162-H (Joint Petition)**

**DECISION AND ORDER APPROVING TRANSFER OF OWNERSHIP INTERESTS
IN GRANITE RIDGE ENERGY, LLC**

Granite Ridge Energy, LLC and Calpine Granite Holdings, LLC filed a Joint Petition seeking approval from the Site Evaluation Committee under RSA 162-H to transfer membership interests in Granite Ridge Energy, LLC to Calpine Granite Holdings, LLC. Granite Ridge Energy, LLC owns and operates the 720-megawatt combined cycle natural gas-fired merchant power plant located in Londonderry, New Hampshire. Granite Ridge Energy, LLC holds the original Certificate of Site and Facility granted in May 1999 to AES Londonderry, LLC (SEC Docket No. 98-02). The Site Evaluation Committee's authority to consider the issue raised in this docket is set forth at RSA 162-H:4 and RSA 162-H:5, I.

General Appearances

CALPINE GRANITE HOLDINGS, LLC
Mark E. Beliveau, Esq.
Pierce Atwood LLP
One New Hampshire Avenue
Suite 350
Portsmouth, NH 03801

COUNSEL FOR THE PUBLIC
K. Allen Brooks, Esq.
Office of the Attorney General
Department of Justice
33 Capitol Street
Concord, NH 03301-6397

GRANITE RIDGE ENERGY, LLC
Maureen D. Smith, Esq.
Douglas L. Patch
Orr & Reno, P.A.
45 S. Main Street
Concord, NH 03302

FOR THE COMMITTEE
Michael J. Iacopino, Esq.
Brennan Lenehan Iacopino & Hickey
85 Brook Street
Manchester, NH 03104

Introduction

In their Joint Petition, Granite Ridge Energy, LLC (Granite Ridge) and Calpine Granite Holdings, LLC (referred to herein as Calpine Granite and jointly with Granite Ridge as Petitioners) seek approval from the Site Evaluation Committee (Committee) to transfer membership interests in Granite Ridge to Calpine Granite. Granite Ridge owns and operates the 720-megawatt (MW) combined cycle natural gas-fired merchant power plant located in Londonderry, New Hampshire (the Facility). Granite Ridge holds the original Certificate of Site and Facility granted in May 1999 to AES Londonderry, LLC (SEC Docket No. 98-02)(the “Certificate”). In 2004, the Committee approved transfer of Facility ownership to lenders through voluntary foreclosure and appointment of a special purpose holding company, which was an entity of convenience to own the Facility and to operate it through a contractor while a purchaser for the Facility was sought (SEC Docket No. 2004-01). The Facility company name was subsequently changed to Granite Ridge and a new holding company, Granite Ridge Holdings, LLC (GR Holdings), was formed to hold the membership interests in Granite Ridge.

The Facility consists of: (1) the 720 MW combined cycle natural gas-fired power plant in the Ecological Industrial Park located in Londonderry, New Hampshire; (2) a 2.9 mile electrical transmission interconnection from the power plant to the North Litchfield substation in Litchfield, New Hampshire; (3) a 1.3 mile electrical transmission interconnection from the power plant to the Watts Brook substation; (4) a 2.7 mile lateral gas pipeline connection (owned by Liberty Utilities) to the Tennessee Gas Pipeline; and (5) a cooling water supply pipeline owned by Granite Ridge connecting the Facility to the Manchester Wastewater Treatment Plant (“Manchester WWTP”), including a pumping station located at the Manchester WWTP.

Any proposed change in ownership of Granite Ridge as the Certificate holder for the Facility is subject to the approval of the Committee. This right to approve a change in ownership is set forth as General Condition 6 to the Certificate and was reiterated by the Committee in its October 14, 2004 Decision and Order in *Joint Application of AES Londonderry, et al.*, SEC Docket No. 2004-1. The Petitioners seek Committee approval to transfer all ownership interests in Granite Ridge to Calpine Granite.

History of the Project and Reasons for the Relief Sought

On July 6, 1998, AES Londonderry, LLC (AESL) filed its application with the Committee requesting a Certificate of Site and Facility to construct and operate the Facility. After completing the statutorily required review process and public hearing, the Committee granted the Certificate on May 25, 1999 (SEC Docket No. 98-02).

Construction of the Facility commenced on or about September 7, 2000. Provisional acceptance under its engineering, procurement and construction (EPC) contract was achieved March 17, 2003. The Facility commenced commercial operation and began selling power into the New England NEPOOL wholesale market administered by ISO-New England, Inc. (ISO-NE) on April 1, 2003. *See*, Joint Petition, p. 7. In 2004, upon application of AESL and a group of financial institutions, the Committee approved transfer of the controlling ownership interest in AESL to the lenders through voluntary foreclosure and the use of a special purpose holding company. The holding company was an entity of convenience to own the Facility and to operate it through a contractor while a purchaser for the Facility was sought (SEC Docket No. 2004-01). After approval of AESL's application by the Committee, North American Energy Services (NAES) was engaged to operate the Facility. The Facility company name was subsequently changed to Granite Ridge and GR Holdings was formed to hold the membership interests in

Granite Ridge. Each of the members of GR Holdings is a financial company not primarily engaged in energy-related business activities. *See*, Joint Petition, pgs.8 and 9; Decision and Order in *Joint Application of AES Londonderry, et al.*, SEC Docket No. 2004-1, p. 4; and Exhibit 1, Pre-Filed Testimony of Mauricio Del Valle, p. 4. Granite Ridge has owned and operated the Facility under the terms of Certificate.

GR Holdings and Calpine Granite have entered into a Purchase and Sale Agreement dated as of October 12, 2015 (PSA), under which GR Holdings would sell all of its membership interests in Granite Ridge to Calpine Granite. Transfer of GR Holdings' membership interests in Granite Ridge is expressly subject to the Committee's approval, in addition to other conditions. The Facility will continue to be owned and operated by Granite Ridge. Granite Ridge will continue to hold the Certificate but Calpine Granite will hold all equity interest in Granite Ridge following the transfer. *See*, Joint Petition, p. 2.

Procedural History

The procedural history of this docket is as follows:

On October 28, 2015, Petitioners submitted a Joint Petition for approval to transfer equity interests in Granite Ridge to Calpine Granite. The Joint Petition included pre-filed testimony for William H. Ferguson, East Region Vice President of Operations for Calpine Corporation and, Mauricio Del Valle, Vice President of Finance and Chief Risk Officer for Calpine Corporation. The Joint Petition requested immediate appointment of a three-member subcommittee under RSA 162-H and an expedited review and approval of the proposed transfer of ownership interests in Granite Ridge to Calpine Granite.

On November 13, 2015, an Order was issued appointing a three-member Subcommittee pursuant to RSA 162-H:4-a, III (Subcommittee). The Subcommittee was charged with resolving

all issues that might arise in this docket and to determine whether to grant or deny the Joint Petition.

On December 9, 2015, the Subcommittee issued an Order and Notice of Pre-Hearing Conference and Public Hearing. The Order and Notice set out procedural deadlines and scheduled a hearing on the merits of the Joint Petition to be held on January 19 and January 20, 2016.

On December 14, 2015, Calpine Granite, by its legal counsel, filed an affidavit stating the Order and Notice of Pre-Hearing Conference and Public Hearing was published as ordered by the Subcommittee.

The Subcommittee did not receive any motions to intervene in this docket.

The Pre-Hearing Conference was held on December 22, 2015, at the office of the Public Utilities Commission and the Subcommittee and all parties, including Public Counsel, were present. *See* Transcript of December 22, 2015 Prehearing Conference. Public Counsel reported that he had sent the Petitioners a letter with questions and that Calpine Granite, through its legal counsel, provided written responses. *Id.* at p. 6. A copy of Public Counsel's questions and Calpine Granite's responses was filed with the Committee on January 14, 2016 and was subsequently submitted as evidence at the adjudicative hearing conducted on January 19, 2016. *See* Exhibit 3. Calpine Granite presented for examination the two witnesses who had filed pre-filed testimony with the Joint Petition, William H. Ferguson and Mauricio Del Valle. *See* Transcript of January 19, 2016 Hearing on Joint Petition.

Criteria for Approval of the Joint Petition

RSA 162-H: 5, I requires the Committee's approval of transfer or assignment of a Certificate to any other person or entity. *See* RSA 162-H:5, I. In addition, under the terms of the

Certificate issued to AES Londonderry, LLC in docket No. 98-02, a change in ownership of AES Londonderry, LLC without the approval of the Committee renders the Certificate subject to revocation. *See* Order, Docket No. 98-02, ¶6 (May 25, 1999). Under the Decision and Order approving transfer of equity interest in Granite Ridge f/k/a AES Londonderry, LLC from AES Holdings Londonderry, LLC to Granite Ridge I, “any future changes in ownership or attempts to transfer the Certificate itself are subject to the approval of the Committee.” *See* Decision and Order, Docket No. 2004-01 (Oct. 14, 2004). In other dockets, the Committee has set forth and applied a standard of review for petitions requesting approval of transfer of membership or equity interests in energy facilities that have already been granted a certificate of site and facility.

To approve a transfer in ownership, the proposed owner should demonstrate by the preponderance of evidence that it possesses adequate financial, managerial and technical capabilities to assure that the conditions of the Certificate are continuously met. *See* RSA 162-H:16, IV (a); *see also* Decision and Order Approving Transfer of Ownership Interest in Granite Reliable Power LLC, Docket No. 2010-03 (Feb. 8, 2011); Decision and Order Approving Transfer, Newington Energy, LLC and North American Energy Alliance, LLC, Docket No. 2008-01 (Apr. 18, 2008). “Ongoing environmental compliance and the safe operation of the facility are of the utmost concern to the Committee and the State of New Hampshire.” *See* Decision and Order Approving Transfer, Newington Energy, LLC and North American Energy Alliance, LLC, Docket No. 2008-01 (April 18, 2008). The Committee will review the financial, technical and managerial experience of the proposed new owner in order to determine whether the proposed owner possesses adequate financial, managerial and technical capabilities to assure that the conditions of the Certificate are continuously met. *See* Decision and Order Approving

Transfer of Ownership Interest in Granite Reliable Power LLC, Docket No. 2010-03 (Feb. 8, 2011).

Furthermore, under newly enacted New Hampshire Code of Administrative Rules, Site 301.13, when determining whether an applicant for a Certificate of Site and Facility, has the financial capability to construct and operate the facility, the Committee is required to consider the following:

- (1) The applicant's experience in securing funding to construct and operate energy facilities similar to the proposed facility;
- (2) The experience and expertise of the applicant and its advisors, to the extent the applicant is relying on advisors;
- (3) The applicant's statements of current and pro forma assets and liabilities; and
- (4) Financial commitments the applicant has obtained or made in support of the construction and operation of the proposed facility.

N.H. CODE ADMIN. R. Site 301.13, (a)(1)-(4) (2015).

When determining whether an applicant for a Certificate of Site and Facility, has the technical capability to construct and operate the facility, the Committee is required to consider the following:

- (1) The applicant's experience in designing, constructing, and operating energy facilities similar to the proposed facility; and
- (2) The experience and expertise of any contractors or consultants engaged or to be engaged by the applicant to provide technical support for the construction and operation of the proposed facility, if known at the time.

Id. Site 301.13 (b)(1)-(2).

Finally, when determining whether an applicant for a Certificate of Site and Facility, has the managerial capability to construct and operate the facility, the Committee is required to consider the following:

(1) The applicant's experience in managing the construction and operation of energy facilities similar to the proposed facility; and

(2) The experience and expertise of any contractors or consultants engaged or to be engaged by the applicant to provide managerial support for the construction and operation of the proposed facility, if known at the time.

Id. Site 301.13 (c)(1)-(2).

Although the regulations address requirements that apply specifically to the applicants who seek Certificate for Site and Facility, said regulations provide valuable guidance for determining Calpine's financial, managerial, and technical capacity to continue operation of the Facility in accordance with the Certificate.

Accordingly, the Subcommittee has reviewed the financial, technical and managerial capabilities and experience of the proposed new owner in order to determine whether the Petitioners have demonstrated, by a preponderance of the evidence, that the proposed owner possesses adequate financial, managerial and technical capabilities to assure that the terms and conditions of the Certificate will be continuously met.

Findings and Analysis

The Petitioners seek approval to transfer all of the membership interests in Granite Ridge to Calpine Granite. All of the membership interests of Granite Ridge are currently owned by GR Holdings, a limited liability company formed under the laws of Delaware. Each of the members

of GR Holdings is a financial company not primarily engaged in energy-related business activities. As described above, since taking ownership of the membership interests in Granite Ridge, it has been the intention of GR Holdings to seek a purchaser of the Facility. GR Holdings and Calpine Granite have entered into the PSA under which all of the membership interests in Granite Ridge, a limited liability company formed under the laws of Delaware will be transferred to Calpine Granite. Granite Ridge will continue to be the record owner and operator of the Facility and holder of the Certificate.

In his testimony, Mauricio Del Valle, Vice President of Finance and Chief Risk Officer for Calpine Corporation, described Calpine Granite's relationship to Calpine Corporation (Calpine) as an indirect, wholly-owned subsidiary of Calpine. Specifically, Calpine Granite is a wholly owned subsidiary of Calpine Power Company. Calpine Power Company is a wholly owned subsidiary of Calpine Corporation. Calpine Granite will own the membership interest in Granite Ridge and will operate Granite Ridge as a going concern. *See*, Exhibit 1, Pre-Filed Testimony of Mauricio Del Valle, p. 4. The Joint Petition indicates that Calpine Granite intends to continue operating the facility in compliance with all terms of the Certificate. *See*, Joint Petition at 15.

Counsel for the Public had requested Calpine Granite to address whether Calpine Corporation would be bound to fulfill the conditions of the SEC Certificate. *See*, Exhibit 3. While Calpine's organizational structure with regard to Calpine Granite and Granite Ridge reflects the existing organizational structure in that membership interests of the Facility owner/operator are held by a limited liability company, Mr. Del Valle testified that, through the response to Public Counsel stated in Exhibit 3, Calpine Granite and its affiliates will stand behind the representations made in the Joint Petition and pre-filed testimony and will ensure that

Granite Ridge Energy, LLC abides by all of the terms and conditions of the Certificate.
Transcript, January 19, 2016 Hearing, p.14 - 15.

The record reflects that Calpine Granite's affiliates have substantial resources and experience in ownership and operation of energy facilities. Calpine is a Delaware corporation engaged through subsidiaries in the development, financing, acquisition, ownership, and operation of independent power production facilities and the wholesale marketing of electricity in the United States and Canada. Through various subsidiaries, Calpine currently owns, leases, and operates 82 natural gas-fired and renewable solar and geothermal power plants in the United States and Canada with an aggregate generating capacity of nearly 27,000 MW. Calpine's headquarters are located in Houston, Texas. Calpine is a publicly-owned company with stock traded on the New York Stock Exchange. *See*, Joint Petition, p. 2 and Exhibit 1, Pre-Filed Testimony of Mauricio Del Valle, p. 3.

The Joint Petition reflects that through its subsidiaries, Calpine owns the following generation facilities in the New England region:

- Calpine Fore River Energy Center, LLC (Calpine Fore River). Calpine Fore River owns and operates an approximately 725 MW natural gas-fired generation facility in North Weymouth, Massachusetts; and
- Westbrook Energy Center, LLC (Westbrook). Westbrook owns and operates an approximately 500 MW natural gas-fired facility near Westbrook, Maine.

The Joint Petition also reflects that other Calpine subsidiaries own or control generation facilities throughout the rest of the country, including New York, the Mid-Atlantic, the Midwest, the Southeast, Texas and California. *See*, Exhibit 1, Pre-Filed Testimony of Mauricio Del Valle, p. 3.

The record reflects that Calpine's financial reports are filed with the U.S. Securities and Exchange Commission (US SEC). Calpine's most recent Form 10-K filing, filed with the US

SEC on February 13, 2015, and its Form 10-Q filing, filed with the US SEC on July 30, 2015, were provided as attachments to the pre-filed testimony of Mauricio Del Valle.

In its responses to Counsel for the Public and in testimony at the hearing, it was stated that Calpine is not relying on project-financed debt and that it plans to fund its acquisition of the membership interests in Granite Ridge with a combination of debt and cash on hand. See Exhibit 3, p. 5 and Transcript of January 19, 2016 Hearing, p. 11. Mr. Del Valle testified that on December 15, 2015, Calpine closed on a \$550 million first lien senior secured term loan. Calpine intends to utilize \$325 million of the proceeds from the term loan, together with cash on hand, to effect the acquisition of 100% of the outstanding membership interests in Granite Ridge. Transcript, January 19, 2016 Hearing, p. 11. According to Mr. Del Valle, the financing plan for the purchase of Granite Ridge is similar to Calpine's most recent power plant acquisitions. For example, in the 2014 Fore River transaction, Calpine paid \$530 million for the facility with cash on hand and Calpine's 2014 acquisition of the \$625 million Guadalupe Energy Center in Marion, Texas was funded with cash on hand and a \$425 million incremental Term Loan B through Calpine subsidiary, Calpine Construction Finance Company, L.P. The \$432 million purchase price (plus adjustments) for the Bosque Energy Center in Laguna Park, Texas in 2012 was funded by Calpine through cash on hand. *See*, Exhibit 1, Pre-Filed Testimony of Mauricio Del Valle, p. 5.

In addition, the Joint Petitioners submitted as evidence of Calpine's track record and experience with the acquisition of power plants similar to Granite Ridge, in 2010, that Calpine had acquired 19 power plants totaling approximately 4,500 megawatts in a \$1.6 billion transaction with Conectiv Energy. All of those units are located within the PJM market primarily in the states of Delaware, New Jersey and Pennsylvania. *See*, Joint Petition, p. 14.

William H. Ferguson, East Region Vice President of Operations for Calpine Corporation, offered testimony in support of Calpine Granite and Calpine's experience and managerial and technical capability to successfully own and operate the Granite Ridge Facility in continued compliance with the terms and conditions of the Certificate. *See* Exhibit 2, Pre-Filed Testimony of William H. Ferguson.

According to Mr. Ferguson, Calpine is a Fortune 500 company with a market capitalization of approximately \$6 billion and 2014 annual revenues of approximately \$8 billion. Calpine has more than three decades of experience related to the development, construction and operation of large-scale power generating facilities. Calpine employs more than 2,000 professionals and its fleet currently includes 82 operating power plants and one under construction located throughout 18 states and Canada, representing a combined total of more than 27,000 megawatts of electric generating capacity. Calpine's fleet of power generation assets is almost exclusively comprised of natural gas-fired, combined-cycle power plants, similar in design and operation to Granite Ridge. *See*, Exhibit 2, Pre-Filed Testimony of William H. Ferguson, p. 4.

Also according to Mr. Ferguson, Calpine, through various subsidiaries, owns and operates power generating facilities in all the organized competitive markets throughout the U.S., including ISO-NE, NYISO, PJM, ERCOT, MISO, and CAISO. Calpine participates both in "merchant" markets – i.e. restructured markets in which most if not all power sales transactions occur on a day-ahead or real-time basis – as well as bilateral markets in which Calpine operates facilities pursuant to Power Purchase Agreements with various utility companies or other counterparties. According to the most recent data published by Platts, a leading global provider of energy information, Calpine is currently the 6th largest electric generating company in the

nation as measured by annual electrical power produced. This means that Calpine provides approximately 3 percent of the total electricity needs of the United States. *See*, Exhibit 2, Pre-Filed Testimony of William H. Ferguson, p. 5.

For more than 10 years, the Facility has been operated and maintained pursuant to an Amended and Restated Operation and Maintenance Agreement (“O&M Agreement”) between NAES Corporation (“NAES”) and Granite Ridge Energy, LLC. Under the PSA, Calpine Granite has the option to either extend and continue the O&M Agreement or terminate the contract and offer employment to the existing plant personnel as Calpine employees, subject to Calpine’s typical employee screening practices. *See*, Joint Petition, pgs. 11 and 12 and Exhibit 2, Pre-Filed Testimony of William H. Ferguson, p. 9. At the public hearing on January 19, 2016, Mr. Ferguson testified that Calpine Granite has exercised its right to terminate the contract with NAES. *See* Transcript at p. 17. In addition, Mr. Ferguson stated that the plant manager and substantially all of the NAES employees that work at Granite Ridge have accepted offers of employment with Calpine and will continue working at the Facility. Transcript, January 19, 2016, p. 17. Mr. Ferguson testified that, as a result, Calpine Granite can continue to draw upon the substantial experience of the existing plant personnel in order to continue compliant and efficient operations at the Facility. *See id.*

The record reflects that, accompanying its substantial experience in acquiring, owning and managing large-scale power generating facilities, Calpine and its affiliates have extensive technical experience as well. Mr. Ferguson testified that Calpine is the largest operator of industrial gas combustion turbines in the U.S. and has broad technical experience in the operations and maintenance of Siemens power generating equipment similar to, and in some cases identical to, what is currently utilized at Granite Ridge. Calpine’s fleet currently includes

35 Frame “F” or “G” class Siemens combustion turbines and 4 Siemens steam turbines.

According to Mr. Ferguson, this has allowed Calpine to develop substantial in-house technical expertise. Moreover, Mr. Ferguson testified that Calpine is somewhat unique among its industry peers in that it has an almost exclusive focus on the ownership and operation of modern combined-cycle power generation equipment. According to Mr. Ferguson, this level of technological focus allows Calpine to capitalize on efficiencies related to parts management, root cause analysis, system engineering, planned and predictive maintenance and employee training. *See*, Exhibit 2, Pre-Filed Testimony of William H. Ferguson, p. 13.

Conclusion

The Subcommittee finds that the Petitioners have established by a preponderance of the evidence that Calpine Granite has adequate financial, managerial, and technical capabilities to assure the continued operation of the Facility in continuing compliance with all of the terms and conditions of the Certificate originally issued to AESL in SEC Docket No. 98-02. The Subcommittee is satisfied that there is sufficient evidence to show that after transfer of the ownership interests in Granite Ridge to Calpine Granite, Calpine Granite and its affiliates will ensure that the Facility remains in compliance with the terms of the Certificate. Messrs. Del Valle and Ferguson testified as to the nature and extent of support and services that are provided by Calpine Corporation and its affiliates. Further testimony indicated that Calpine Granite Holdings, LLC was under no obligation to utilize these services. This Order does not change or modify the terms and conditions of the Certificate. The Committee maintains the authority to monitor and enforce the terms and conditions of the Certificate. *See*, RSA 162-H:4, I. Finally, any future changes in ownership or attempts to transfer the Certificate are subject to the approval of the Committee.

Order

Based upon the foregoing, it is hereby:

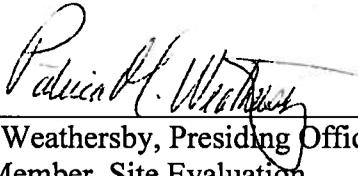
Ordered that the Joint Petition is GRANTED and the Petitioners are authorized to transfer all of the membership interests in Granite Ridge to Calpine Granite; and,

It is further ordered that Calpine Granite Holdings LLC shall ensure that Granite Ridge Energy LLC shall utilize the applicable services, managerial systems and support offered by Calpine Corporation and its affiliates; and,

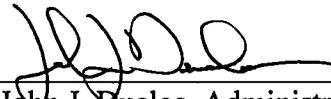
It is further ordered that any change in ownership of Calpine Granite Holdings LLC or Granite Ridge Energy LLC without approval of this Committee shall render the Certificate subject to revocation. The Certificate itself shall not be transferred or assigned to any other person or entity without the approval of the Committee; and,

It is further ordered that all of the terms and conditions of the Certificate originally issued to AESL in SEC Docket No. 98-02 remain in full force and effect.

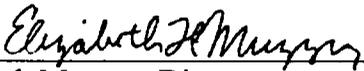
By Order of the Subcommittee appointed by the Site Evaluation Committee of New Hampshire this third day of February, 2016, at Concord, New Hampshire.



Patricia Weathersby, Presiding Officer
Public Member, Site Evaluation
Committee



John J. Duclos, Administrator, Hazardous
Waste Management Bureau, Dept. of
Environmental Services



Elizabeth Muzzey, Director
Division of Historical Resources,
Dept. of Cultural Resources