

State of New Hampshire
Site Evaluation Committee

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**RE: Granite Ridge Energy, LLC – SEC Docket No. 1998-02
Realignment of the Cooling Water Line**

Dear Attorney Smith, Mr. Mauck and Attorney Roth:

On May 25, 1999, the New Hampshire Site Evaluation Committee (Committee) issued a Certificate of Site and Facility permitting the siting, construction and operation of a 720 MW combined cycle natural gas fired energy facility in Londonderry (Facility). The current owner of the Facility is Granite Ridge Energy LLC (GRE). Cooling water is supplied to the facility through a pipeline from the Manchester Waste Water Treatment plant that is located approximately three miles away from the Facility.

On October 27, 2014, the Alteration of Terrain Bureau of the Water Division of the New Hampshire Department of Environmental Services (DES) filed a letter with the Committee regarding what DES referred to as a "Minor Modification to Cooling Water Line Alignment." The letter from DES indicated that the Town of Londonderry had asked GRE to re-align "a

section of the cooling water line from its intersection with a proposed extension of Pettengill Road, westerly along a portion of said road and then northerly along a proposed sewer interceptor alignment until its intersection with the current alignment of the cooling water line.” The letter also indicated that DES had determined that the proposed realignment of the cooling water line was a “minor modification in the alignment and within the authority delegated to DES to specify such minor modification in the cooling water line alignment, as necessary, based upon new information unavailable at the time that the [F]acility was certificated.” The DES letter reported that the alignment modification would “not affect the quantity or quality of cooling water” used at the Facility. In addition, modification of the Facility’s air permit would not be necessary, and the alignment modification would not require any additional DES permits and would be permitted under existing wetlands and alteration of terrain permits issued to the Facility.

On October 28, 2014, GRE filed an informational letter with the Site Evaluation Committee. In its letter, GRE described the proposed realignment and reiterated the information contained in the letter from DES. GRE also referenced the May 25, 1999, Decision granting a certificate of site and facility to the Facility. GRE noted the delegation of authority to DES and also noted that the “precise location of the water line within the rights of way is subject to approval by the Town.” GRE pointed out that the realignment was being sought at the request of the Town of Londonderry.

On November 4, 2014, Senior Assistant Attorney General Peter Roth filed informational comments. In his comments, Attorney Roth asserted that the original delegation of authority to DES was improper because the water cooling line was not an electric transmission line or an energy transmission pipeline. Attorney Roth went on to suggest that the proposed realignment could not be considered a minor alignment modification, because it would be 2,800 feet long and would contain 4 right angles. Finally, he argued that the informational filing should have been submitted as request for a declaratory ruling under NH Admin Rules Site 203.

On November 7, 2014, GRE responded to Attorney Roth’s informational comments, making a number of arguments and assertions. GRE’s arguments can be summarized as follows:

- (1) Counsel for the public has no further standing before the Committee because counsel for the public serves only until the “decision to issue or deny a certificate is final.” *See* RSA 162-H: 9, I.
- (2) The issues raised by Attorney Roth concerning the propriety of the delegation of authority to DES were untimely and should have been raised in 1999 by way of a motion for rehearing and an appeal to the New Hampshire Supreme Court.
- (3) The delegation of authority to DES was proper under both RSA 162-H:4, III-a, and under RSA 162-H:16, VI, which permit the Committee to require “reasonable terms and conditions.”

(4) The realignment of less than a quarter of the cooling water pipeline by 300 feet is well within the definition of a minor realignment.

(5) The minor realignment is well within the properly delegated authority to DES and that a further declaratory ruling from the Committee is unnecessary.

Based on the original application for a certificate of site and facility, the Decision and Order granting the Certificate of Site and Facility, and the filings described above, it is clear that the proposed realignment falls squarely within the authority that was properly delegated to DES in 1999. It is not uncommon for the Committee to delegate authority to a relevant state agency “to specify the use of any technique, methodology, practice or procedure approved by the committee within a certificate.” In this case the Certificate specifically contemplates that a modification of the alignment of the water cooling pipeline may be necessary. The Certificate also specifically contemplates that such a modification of the alignment may be requested by the Town of Londonderry. The Certificate provides that DES would specify the realignment if and when those conditions arose. The Committee is well within its jurisdiction in determining to delegate this authority to DES. In addition, the procedure to permit DES to specify a minor realignment on request of the Town of Londonderry is well within the Committee’s jurisdiction to impose conditions on a Certificate under RSA 162-H:16, VI.

The proposed realignment falls within the specification of the existing wetlands and alteration of terrain permits and, if not ancillary to an energy facility, would require neither new environmental permits nor Committee approval. This is precisely the type of minor modification to alignment of the cooling water pipeline that is contemplated by the existing Certificate.

Accordingly, no further action by the Site Evaluation Committee is necessary. GRF shall, however, provide monthly updates to the Committee generally outlining the progress of the modifications. Upon completion of the modifications, GRE shall file an as-built plan with the Committee.

Sincerely,



Martin P. Honigberg, Chairman
Site Evaluation Committee

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Cc: Service List