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HAND DELIVERED

January 5, 2009

Thomas S. Burack, Chairman
NH Site Evaluation Committee
c/o NH Department of Environmental Services
29 Hazen Drive, P.O. Box 95
Concord, NH 03302-0095

Re: Docket No. 2008-04 - Application of Granite Reliable Power, LLC for a certificate of Site and Facility for the Granite Reliable Power Wind Park in Coos County

Dear Chairman Burack:

On November 4, 2008 the Presiding Officer in the above-captioned matter issued an Order Granting Applicant's Motion for Protective Order and Approving Procedure for Treatment of Confidential, Commercial or Financial Information. The Order said: "Unless otherwise ordered, any future requests for confidential treatment of particular information will be handled with the same procedures detailed above. A determination will be made on a case by case basis, however, as to whether particular information should be accorded confidential treatment."

One oral data request from the Technical Session held on December 19, 2008 seeks information that the Applicant, Granite Reliable Power, LLC ("GRP"), believes should be accorded confidential treatment. Therefore, GRP has provided the response to that data request only to Public Counsel and has further indicated that it considers the information to be confidential and that it would be requesting confidential treatment pursuant to the November 4, 2008 Protective Order. The data request, marked as TS 3-20, is included below, and a single copy of the response is being submitted along with this letter in a separate, sealed envelope marked "Confidential". By this letter GRP is requesting that the response to this data request be accorded confidential treatment under the procedure outlined in the November 4, 2008 Protective Order.

TS 3-20 reads as follows:

TS 3-20. *A footnote in the S-1 filing for Noble indicates that 75MW of the output of this project will be available to Noble. Please explain who is entitled to receive the other 25% of the output from this project. [requested by Public Counsel]*

GRP considers the information provided to Public Counsel and the Committee in response to this data request to fall within the definition of commercial information which is exempted from public inspection pursuant to RSA 91-A:5. RSA 91-A:5, IV provides, *inter alia*, that records pertaining to confidential, commercial or financial information, and other files whose disclosure would constitute an invasion of privacy, are exempt from the public disclosure requirements of RSA 91-A. The New Hampshire Supreme Court has determined that “overhead and operating costs” as well as “financial condition” information constitute “commercial or financial” information within the meaning of RSA 91-A:5, VI. *Union Leader Corp. v. New Hampshire Housing Finance Authority*, 142 N.H. 540, 553 (1997). The Court has also determined that these records are not *per se* exempt from public disclosure; rather, the Court has found that a balancing test must be employed to determine whether the records should be protected. *Id.* The balancing test includes an analysis of whether the public’s interest in disclosure is outweighed by the substantial harm to the competitive position of the person from whom the information was obtained. *Id.* at 553-554.

GRP considers the response to TS 3-20, which is the identity of the entity that has an entitlement to a minority share of the output of this project, to be sensitive commercial information that should not be made available to competitors.

GRP is not asking that it not be required to produce this information; it is asking that the information be subject to the confidential treatment outlined in the November 4, 2008 Protective Order, which means that it would be available to the parties provided they followed the procedure outlined in the Order. As noted above, a copy has already been provided to Public Counsel because of his unique status as recognized in the November 4, 2008 Protective Order.

The competitive harm described above supports a determination that the Applicant’s interest in maintaining the confidentiality of the enclosed information outweighs the public’s interest in disclosure. Moreover, this Committee has employed the above-referenced balancing test in the past and has granted protective treatment of this type of information in similar circumstances. Accordingly, the Committee should treat the enclosed information in a similar manner.

The Applicant respectfully requests that this information be accorded confidential treatment consistent with the November 4, 2008 Protective Order.

Thank you for your cooperation. Please let me know if you have any questions.

Sincerely,



Douglas L. Patch

cc. Service list in SEC Docket No. 2008-04
Enclosure

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