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HAND DELIVERED

February 19, 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

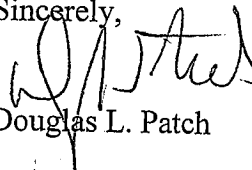
Re: Docket No. 2008-04 - Application of Granite Reliable Power, LLC for a
Certificate of Site and Facility for the Granite Reliable Power Wind Park in Coos County

Dear Chairman Burack:

Enclosed please find the Responses of Granite Reliable Power, LLC in the above-captioned matter as follows: Applicant's Response to Emergency Motion of Counsel for the Public for Additional Discovery dated February 18, 2009; and Applicant's Response to Partially Assented to Emergency Motion of Counsel to the Public for Leave to Retain a Financial Consultant and for an Order Directing Granite Reliable Power, LLC and Noble Environmental Power, LLC to Bear the Costs Thereof and Request of Counsel for the Public for Emergency Hearing on Motion to Employ Financial Consultant, both of which were dated February 17, 2009.

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

Sincerely,



Douglas L. Patch

cc: Subcommittee Chairman Thomas B. Getz
Subcommittee Counsel Michael J. Iacopino
Service list in SEC Docket No. 2008-04

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

Docket No. 2008-04

**RE: APPLICATION OF GRANITE RELIABLE POWER, LLC
FOR A CERTIFICATE OF SITE AND FACILITY
TO CONSTRUCT AND OPERATE
THE GRANITE RELIABLE POWER WINDPARK**

**APPLICANT'S RESPONSE TO PARTIALLY ASSENTED TO EMERGENCY
MOTION OF COUNSEL TO THE PUBLIC FOR LEAVE TO RETAIN A
FINANCIAL CONSULTANT AND FOR AN ORDER DIRECTING GRANITE
RELIABLE POWER, LLC AND NOBLE ENVIRONMENTAL POWER, LLC TO
BEAR THE COSTS THEREOF AND REQUEST OF COUNSEL FOR THE
PUBLIC FOR EMERGENCY HEARING ON MOTION TO EMPLOY
FINANCIAL CONSULTANT**

NOW COMES Granite Reliable Power, LLC ("GRP" or "the Applicant") by and through its undersigned attorneys and responds to the Partially Assented to Motion of Counsel to the Public for Leave to Retain a Financial Consultant and for an Order Directing Granite Reliable Power, LLC and Noble Environmental Power, LLC to Bear the Costs Thereof ("the Motion") and Request of Counsel for the Public for Emergency Hearing on Motion to Employ Financial Consultant ("the Request") in the above-captioned matter, both dated February 17, 2009, by stating as follows:

1. In the Motion, Counsel to the Public has asked the New Hampshire Site Evaluation Committee ("the Committee") to enter an order authorizing the employment of a financial consultant pursuant to RSA 162-H:10,V and directing the Applicant to bear the costs up to a total of \$75,000. Public Counsel indicates that he intends to have the consultant "prepare prefiled testimony in advance of the February 23, 2009 deadline". The Applicant concurs with

authorizing Public Counsel to hire a financial consultant provided the fee is capped at \$10,000 and the consultant does not submit testimony. The Applicant does not believe that an emergency hearing is necessary and therefore objects to the Request, and further submits that to the extent Public Counsel believes there is an emergency, it is of Public Counsel's own making because of his failure to abide by the schedule approved by the Committee and the procedures laid out in the statute and rules.

2. The Applicant submitted the Application for this Project on July 15, 2009. Subsequently, pursuant to an August 27, 2008 Order of the Committee, the parties, including Public Counsel, attended a prehearing conference on September 18, 2008, and agreed to a schedule that the Committee accepted. See *Report of Prehearing Conference* dated September 26, 2008. That Report contained a schedule, which, as it notes, was agreed to by the parties, including Public Counsel, which provided for the submission and responses to data requests, the submission of pre-filed testimony by "Intervenors and Public Counsel", and, later in the schedule, the submission of supplemental testimony.

3. On November 7, 2008 Public Counsel submitted a request to obtain certain specific consultants, with which the Applicant concurred. Public Counsel did not ask for a financial consultant at that time. In response to requests from Public Counsel and other parties, the Committee modified the dates for submission of testimony by "Intervenors and Public Counsel" (January 5, 2008), while the date for submission of supplemental pre-filed testimony remained the same (i.e. February 23, 2009). See *Order Approving Payment of Consultant, Granting Confidentiality and Revising Procedural Schedule* dated December 8, 2008. The Intervenors and Public Counsel submitted pre-filed testimony on January 5, 2009, none of which

raised issues about the financial capability of the Applicant. Public Counsel filed no testimony regarding financial issues by the January 5, 2009 deadline imposed by the Committee.

4. On December 29, 2008, Public Counsel indicated that he was “considering the retention of a financial consultant under 162-H:10 V.” See Attachment B to the Public Counsel’s earlier Motion to Suspend the Proceedings. As indicated in more detail in its Objection to the Motion to Suspend the proceedings, the Applicant told Public Counsel in January that it could support a request for a financial consultant provided it was capped at \$10,000 and the consultant did not submit testimony.

5. Public Counsel has had the Application since July 15 and has known the schedule for this proceeding since September. Public Counsel submitted a request on November 7, 2008 asking for consultants, but did not ask for a financial consultant, and submitted testimony on January 5, 2009 that did not address any financial issues. For whatever reason, Public Counsel has chosen to wait until now, less than three weeks before the scheduled hearing and more than 10 months into this process, to ask the Committee for the authority to hire a financial consultant. It would be unfair to allow Public Counsel to hire a financial consultant for the amount he has requested and to allow that consultant to submit testimony by February 23 given the lateness of Public Counsel’s request.

6. Public Counsel’s request for \$75,000 is exorbitant; it exceeds by \$75,000 the cap which he agreed to in November for consultants and would more than double Public Counsel’s “consultant” expenses for which the Applicant would be liable. The Applicant notes that there are many other expenses related to this proceeding that it must bear. The statute that authorizes the hiring of such consultants provides: “The site evaluation committee and counsel for the public and, if a bulk power supply facility application, the commission, shall jointly conduct

such *reasonable* studies and investigations as they deem necessary or appropriate to carry out the purposes of this chapter and may employ a consultant or consultants, legal counsel and other staff in furtherance of the duties imposed by this chapter, the cost of which shall be borne by the applicant in such amount as may be approved by the committee..." RSA 162-H:10,V.

[Emphasis added.] The Applicant submits that the request from Public Counsel is unreasonable and exorbitant and that it comes far too late in the proceeding.

7. The Applicant will be placed at a disadvantage if Public Counsel is allowed to have his consultant submit testimony at this late date; it should have been done by the January 5 deadline for Public Counsel and intervenor testimony, when the Applicant could have conducted discovery on the testimony. There is no reason that Public Counsel could not have complied with the schedule laid out last fall and agreed to by Public Counsel. It would be unfair and contrary to due process to allow Public Counsel to submit such testimony on February 23.

8. GRP respectfully notes that there is no "emergency" and therefore no need for an "emergency hearing" as Public Counsel has requested. Once again Public Counsel has tried to turn his own dilatory behavior into an issue which the Committee must resolve. If he had followed the schedule and abided by the procedures laid out in the statute and rules, there would be no "emergency". The Committee should not accede to the request, but should instead allow Public Counsel to retain a financial consultant with a cap of \$10,000, but without allowing him to submit testimony.

9. The Applicant notes that in the Lempster case Public Counsel retained experts who did not testify at the hearing. A consultant can assist in helping counsel to prepare for a hearing and for cross examination of witnesses, without testifying, which is what the Applicant believed was Public Counsel's intent here given how late we are in the proceeding and given the

exchange of emails noted above. The Applicant does not believe that a financial expert can provide a significant contribution at this point in the proceeding; there are no experts on the impact of the stimulus package and the financing is pretty straight forward. For these reasons, Public Counsel's request should be limited.

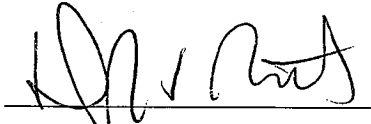
Wherefore, the Applicant respectfully requests that the Presiding Officer:

- A. Cap the Public Counsel's request for a financial consultant at \$10,000;
- B. Deny the request that the financial consultant be allowed to submit testimony;
- C. Deny the request for an emergency hearing; and
- C. Grant such other relief as may be just and equitable.

Respectfully submitted,

Granite Reliable Power, LLC

By Its Attorneys



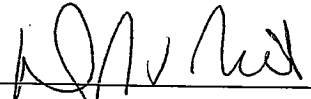
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Dated: February 19, 2009

Certificate of Service

I hereby certify that, on the date written below, I caused the within Response to be sent by electronic mail or U.S. mail, postage prepaid, to the persons on the attached list.

2/19/09
Date


Douglas L. Patch

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**STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE**

Docket No. 2008-04

**RE: APPLICATION OF GRANITE RELIABLE POWER, LLC
FOR A CERTIFICATE OF SITE AND FACILITY
TO CONSTRUCT AND OPERATE
THE GRANITE RELIABLE POWER WINDPARK**

**APPLICANT'S RESPONSE TO EMERGENCY MOTION OF COUNSEL FOR
THE PUBLIC FOR ADDITIONAL DISCOVERY**

NOW COMES Granite Reliable Power, LLC ("GRP" or "the Applicant") by and through its undersigned attorneys, and responds to the Emergency Motion of Counsel for the Public for Additional Discovery ("the Motion") dated February 18, 2009, by stating as follows:

1. In the Motion, Counsel for the Public has asked the New Hampshire Site Evaluation Committee ("the Committee") to enter an order requiring the Applicant to respond to additional discovery on financial issues. Public Counsel does not suggest a schedule for the submission of the data requests, nor does he suggest any limit on the number of data requests that he be allowed to ask, despite the fact that he has had a full and fair opportunity to ask such questions in accordance with the schedule adopted by the Committee in September of 2008 and agreed to by Public Counsel. That schedule requires that any such requests should have been submitted long ago. Because of his failure to suggest any such limits for the discovery he requests, this Motion amounts to an attempt to obtain from the Committee what Public Counsel did not obtain in his earlier Motion to Suspend the Proceedings.

2. The Applicant submitted the Application for this Project on July 15, 2009. Subsequently, the parties, including Public Counsel, attended a prehearing conference on September 18, 2008, and agreed to a schedule that the Committee accepted. See *Report of Prehearing Conference* dated September 26, 2008. That Report contained a schedule which established the methods and timing of discovery, including, among other things, the dates for submission of and responses to data requests, and the scheduling of technical sessions, as well as time frames for responding to data requests made at technical sessions. See Admin. Rule Site 202.12(b).

3. The Applicant responded to over 400 data requests, including four rounds of data requests from Public Counsel, and made its witnesses available for two technical sessions and responded to the data requests that resulted from those technical sessions. The Applicant also offered to make Mr. Lowe available by telephone to answer questions at the technical sessions and offered to make him available by telephone subsequent to those technical sessions. Public Counsel did not avail himself of those opportunities.

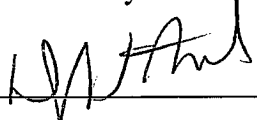
4. In the interest of being reasonable and trying to accommodate Public Counsel's requests (even though they come at the eleventh hour of this proceeding), the Applicant is willing to agree to a limited number of data requests provided they do not change the schedule that all parties have been operating under since September of 2008 and that meets the statutory requirements for this proceeding. Therefore, the Applicant agrees that Public Counsel should be allowed to ask up to 20 additional data requests with regard to the financial matters which the Applicant intends to address in supplemental testimony to be filed by February 23, 2009, provided the data requests are given to the Applicant by February 27, 2009 and that they do not extend the schedule that has been in place since September of 2008.

5. The Applicant does not agree to the deposition which Public Counsel has requested, also at the eleventh hour. The time it would take to schedule and prepare for the deposition would significantly detract from the Applicant's ability to prepare for the hearings scheduled to begin in less than three weeks time. It would be a departure from the standard practice before the Committee to order a deposition, especially at this point in the proceeding. The Applicant submits that ordering a deposition at this point in the proceeding would "unduly delay the prompt and orderly conduct of the proceeding." Admin. Rule Site 202.12(a). Moreover, as the Presiding Officer met the requirement of Admin. Rule Site 202.12(b) and issued an order "prescribing the methods of discovery" and "the timing of discovery", it would be inappropriate to reward Public Counsel's dilatory behavior by granting his Motion at this point in the proceeding.

Wherefore, the Applicant respectfully requests that the Presiding Officer:

- A. Deny Public Counsel's request for unlimited discovery, and instead limit the discovery as suggested above and require that it be submitted in the time frame stated above;
- B. Deny the request for a deposition; and
- C. Grant such other relief as may be just and equitable.

Respectfully submitted,
Granite Reliable Power, LLC
By Its Attorneys



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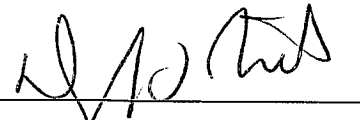
Dated: February 19, 2009

Certificate of Service

I hereby certify that, on the date written below, I caused the within Response to be sent by electronic mail or U.S. mail, postage prepaid, to the persons on the attached list.

2/19/09

Date



Douglas L. Patch

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