

March 8, 2009

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Via Electronic Mail

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 for filing with the Site Evaluation Committee in the above-captioned matter please find "Applicant's Response to Objection of Counsel for the Public to Admission of Applicant's Exhibit 36".

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

Maureen D. Smith
(Of Counsel)

Sincerely,

Douglas L. Patch

cc. Service List
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 OBJECTION OF COUNSEL FOR THE PUBLIC
TO ADMISSION OF APPLICANT'S EXHIBIT 56**

NOW COMES Granite Reliable Power, LLC ("GRP" or "the Applicant") by and through its undersigned attorneys and responds to the Objection of Counsel for the Public to Admission of Applicant's Exhibit 56 ("Objection to Admission") in the above-captioned matter, dated March 6, 2009, by stating as follows:

1. In his Objection to Admission, Public Counsel has asked the New Hampshire Site Evaluation Committee ("the Committee") to deny admission into evidence the Report of Economic Impacts of Proposed Facility by Dr. Ross Gittell and Matthew Magnusson, MBA ("the Report") which has been premarked for identification as Petitioner's Exhibit 56. In support of the Objection to Admission, Public Counsel erroneously asserts that the only reference to the Report is in the Supplemental Testimony of Mark Lyons and Pip Decker. The Report, in fact, is referenced in the Supplemental Application at page 5 which cross-references and supplements Section J "Orderly Development of the Region" found at pages 97-98 of the Application. The Objection to Admission argues further that the Report should not be admitted because there is no testimony submitted by the authors of the Report, and it is not expected that there will be an

opportunity to conduct discovery on the statements and conclusions made in the Report or to cross-examine the authors.

2. Both the New Hampshire Administrative Procedures Act and the Committee's rules provide that the rules of evidence do not apply to the instant proceedings. *See* RSA 541-A:33, II and Admin. Rule Site 202.24. They also provide that the presiding officer may exclude irrelevant, immaterial, unduly repetitious or legally privileged evidence. Exhibit 56 should not be excluded because it is clearly relevant, material and not repetitious of other evidence and it is not subject to any legal privilege.

3. As Mr. Decker's and Mr. Lyons' joint supplemental testimony indicates at page 6, the Report was prepared in part to respond to the following reference in the *Order Accepting Application for Certificate of Site and Facility and Designating a Subcommittee Pursuant to RSA 162-H:6-a* issued on August 14, 2008: "The Department of Resources and Economic Development responded on August 14, 2008, indicating that the Application contained sufficient information to carry out the purposes of R.S.A. 162-H, but noting that some areas of the Application contained poor documentation." The undersigned counsel attempted to obtain clarification of the term "poor documentation" by contacting the DRED Commissioner (who is not a member of the subcommittee designated to hear this case) in August when the Order was issued. Subsequently, representatives of the Applicant contacted the Committee's representatives (e.g. Ms. Murray and Attorney Iacopino) to obtain a copy of the DRED response referred to in the Order. Thus far, the Applicant has not been able to obtain a copy of the DRED response.

4. The above-referenced statement from DRED suggested that DRED considered the application to contain poor or limited documentation regarding information relating to the

economic development associated with the project. Similar concerns about the lack of documentation of economic impacts were also expressed by intervenors and others during the proceeding. For example, in her January pre-filed testimony, Kathlyn J. Keene said: “As an intervenor, I have not seen one study done or report that came from a professional firm showing the impacts that this facility would have on our current economic base.” Testimony of Kathlyn J. Keene, page 8; see also pages 2 and 5-7 of her testimony. To respond to these comments and concerns, the Applicant determined that it would be appropriate to supplement its application with additional documentation to quantify the economic impact of the project. The Applicant therefore hired Professor Gittell to analyze that impact and provide a report.

5. It would be inconsistent with the Administrative Procedures Act and the Committee’s rules cited above to deny the admission of the Report into evidence. By having this Report prepared and submitted, the Applicant was exercising its right to respond to concerns and criticisms expressed by one of the agencies represented on the Committee and by intervenors. Denying the Applicant the opportunity to submit this Report would deprive the Applicant of its right to substantiate its case and meet its burden before the Committee. It would also deprive the Committee of the opportunity to receive and consider all relevant evidence regarding the economic development impacts associated with the Project.

6. To address Public Counsel’s concerns about the inability to cross-examine Dr. Gittell, the Applicant would be willing to attempt to find a time during the proceeding when Dr. Gittell could be made available to answer questions about the report. The Applicant points out once again that Public Counsel has failed to meet the requirements of Admin. Rule Site 202.14(d) because he did not attempt to obtain concurrence for his Motion, thereby causing additional time, expense and effort on the part of the Applicant and the Committee. Had Public

Counsel called the undersigned before filing the Objection, it is possible that the offer to make Dr. Gittell available for testimony might have prevented the filing of the Objection and obviated the need for the instant Response.

7. As an additional procedural matter, the Applicant also notes that at the final prehearing conference on March 5, 2009, Committee Counsel Iacopino expressly asked whether any party wished to object to any of the exhibits that had been marked at that time. No objections were raised. Since Public Counsel has known since February 24, 2009 that the Report would be part of the Applicant's supplemental filing, he should have raised his objection to it either before or during the prehearing conference, not on the eve of the hearing.

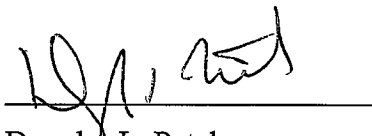
In view of the foregoing, the Applicant respectfully requests that the Presiding Officer:

- A. Overrule the Objection of Counsel for the Public to Admission of Applicant's Exhibit 56; and
- B. Grant such other relief as may be just and equitable.

Respectfully submitted,

Granite Reliable Power, LLC

By Its Attorneys



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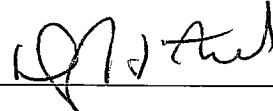
Dated: March 8, 2009

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.

March 8, 2009

Date



Douglas L. Patch

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