

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

_____)
RE: Application of Granite Reliable)
Power, LLC for Certificate of site and)
facility to construct up to 99 MW of wind)
electric generation in Coos County,)
New Hampshire and operate the same)
_____)

Docket No. 2008-04

**MOTION OF COUNSEL FOR THE PUBLIC TO RECALL
CHRISTOPHER LOWE FOR ADDITIONAL CROSS EXAMINATION**

Counsel for the public, Senior Assistant Attorney General Peter C.L. Roth, by his attorneys, the Office of the Attorney General, hereby moves to recall the Applicant’s chief financial officer, Christopher Lowe, for additional cross-examination. Additional testimony from this witness is necessary because it recently came to Counsel for the Public’s attention that the Applicant has not paid over two million dollars to suppliers and contractors on its New York projects, that one of the projects saw significant cost overruns, and many suppliers and contractors have placed mechanics’ liens on property in New York. The additional cross examination is necessary because the Applicant’s conduct of its business in this way in New York is evidence of its lack of managerial and technical capability to construct and operate the proposed Coos project. In support hereof, Counsel for the Public respectfully represents as follows:

1. Under RSA 162-H:16 in order to obtain a certificate of site and facility the Applicant must show that it has “adequate technical and managerial capability to assure construction and operation of the facility in continuing compliance with the terms and conditions of the certificate.”

2. The evidence shows that the Applicant and its parent, Noble Environmental Power (“NEP”) have lost employees involved in this development, have reduced their development plans significantly, and the Applicant has shown increases in the amounts of its accounts payable. *See, e.g.*, PC Ex. 8; PC Ex. 15. The Applicant’s cash position has decreased. *Id.*

3. A substantial number of liens have been filed against NEP relating to vendors and contractors working on NEP’s projects in New York. The liens total over \$2.9 million and were asserted by Adirondack Energy Products, Inc., I.B.E.W. Local Union No. 1249, et al., I.B.E.W. Local 910 Health and Welfare Fund, et al., Stuart C. Irby Company, and Versatile Office & Storage, Inc.

4. In a conversation with Counsel for the Public on March 20, 2009, Mr. Lowe suggested that the Stuart C. Irby Co. lien was the subject of a dispute and that certain unspecified others may be related to a sub-contractor’s bankruptcy, which sub-contractor was not bonded. Mr. Lowe has not, however, provided any documentation of the dispute despite Counsel for the Public’s request for it. Mr. Lowe also suggested that NEP’s failure to pay certain of the claims was a part of a strategy to extract more favorable terms from the creditors in question.

5. After conducting a preliminary investigation into other wind energy projects in the region, Counsel for the Public did not uncover other instances where other developers engaged in similar practices and tactics.

6. Counsel for the Public believes that this situation and NEP’s sharp business tactic are further evidence that the Applicant lacks adequate managerial and technical capability and may also be evidence that it lacks financial capability. Cross-examination of

Mr. Lowe is necessary to fully explore the facts and perhaps shed more light on how the Applicant might be expected to handle its payables in constructing and operating the proposed project and, importantly, to conduct its relationships with New Hampshire people that the Applicant might do business with if it obtains a certificate.

7. Counsel for the Public has sought the concurrence of the other parties to the case. Counsel for the Applicant stated an intention to object. Lisa Linowes, Kathlyn Keene, Robert Keene and Jon Odell all assent. AMC, Mr. Seiler, and Fish & Game did not respond.

Respectfully submitted this 25th day of March, 2009,

PETER C.L. ROTH
COUNSEL TO THE PUBLIC

By his attorneys

KELLY A. AYOTTE
ATTORNEY GENERAL

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