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January 12, 2011

VIA E-MAIL AND U.S. MAIL

Thomas S. Burack, Chairman
ATTN: Jane A. Murray
NH Site Evaluation Committee
NH Department of Environmental Services
29 Hazen Drive, Box 95
Concord, NH 03301

Re: *Joint Application by Granite Reliable Power, LLC and Brookfield Renewable Power Inc. for Approval to Transfer of Equity Interests in Granite Reliable Power, LLC Under RSA Ch. 162-H*
Docket No. 2010-03

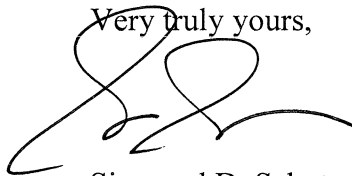
Dear Chairman Burack:

Enclosed for filing in the above-captioned matter are an original and 18 copies of our Assented-to Motion for Protective Order and Confidential Treatment and a proposed Order Granting Assented-to Motion for Protective Order and Confidential Treatment.

We are filing the Motion for a Protective Order so that it may be considered by the Chair in advance of the technical session now scheduled for January 18, 2011.

Thank you.

Very truly yours,



Sigmund D. Schutz

SDS/jac

Enclosures

cc: Service List (via e-mail (if an e-mail is not available, by U.S. Mail))

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

DOCKET NO. 2010-03

**JOINT APPLICATION BY GRANITE RELIABLE POWER, LLC
AND BROOKFIELD RENEWABLE POWER INC. FOR APPROVAL TO
TRANSFER EQUITY INTERESTS IN GRANITE RELIABLE POWER, LLC
UNDER RSA CH. 162-H**

**ASSENTED-TO MOTION FOR PROTECTIVE ORDER AND
CONFIDENTIAL TREATMENT**

NOW COME Granite Reliable Power, LLC (“GRP”) and Brookfield Renewable Power, Inc. (referred to herein along with its affiliates as “Brookfield” and, collectively, with GRP, the “Applicants”) by and through their undersigned counsel, and respectfully move that the Site Evaluation Committee (“SEC” or “Committee”) issue a protective order which preserves the confidentiality of certain information in connection with the above-captioned matter. In support of this Motion, the Applicants have filed a proposed order and state as follows:

1. This proceeding involves a request for approval of the transfer of a majority interest (75%) in GRP from Noble Environmental Power, LLC to Brookfield. The issue before the Committee is whether Brookfield has the technical, managerial, and financial capacity to undertake the previously SEC-approved project in accordance with the terms and conditions of the approval.

All of the information contained in the application is public.

2. On January 3, 2011, the SEC convened a Pre-Hearing Conference. As authorized by the Commission, Michael J. Iacopino, Counsel to the Committee, presided at the conference. Those in attendance included representatives of the Applicants, Peter C.L. Roth of the New Hampshire Department of Justice (the anticipated but not yet appointed Counsel to the Public), the one party that has requested intervention, Lisa Linowes on behalf of Industrial Wind Action Group.

3. The attendees at the prehearing conference discussed a discovery process and agreed to a technical session to be held on January 18, 2011. Mr. Roth and Ms. Linowes made clear that they would be requesting that Brookfield make available certain technical, managerial, and/or financial information not contained within the application at or in advance of the technical session. On January 10, 2011, Ms. Linowes followed-up with a written request for certain documents:

- A. Updated timeline for construction;
- B. Updated pro forma financials on the project including anticipated energy sales and REC, energy, and capacity values;
- C. Purchase and sale agreement signed between Brookfield and Noble Environmental; and
- D. Power purchase agreements with two Vermont-based electric utilities, Green Mountain Power Corp (“GMP”) and Central Vermont Public Service Corporation (“CVPS”) as approved by the Vermont Public Service Board.

The Applicants are reviewing the requested documents. The Applicants consider some of the information in these documents to be trade secrets or otherwise sensitive, proprietary, and non-public commercial or financial information and they may not be willing or able to provide some of the information requested based on other grounds.

4. The Applicants intend, as appropriate, to provide information beyond what is contained in their application, but are concerned about public disclosure of certain trade secrets, and otherwise sensitive, proprietary, and non-public information that has been and may be requested in the course of this proceeding (“Confidential Information”) – including certain information in certain documents requested by Ms. Linowes on January 10, 2011. The disclosure of Confidential Information to the general public or to competitors of GRP or Brookfield, could have a materially adverse effect on both entities. The electricity generation and related markets are intensely competitive. Competitive generators safeguard certain types of information and take steps to insure that certain types of information are not disclosed to the public or to one another for various reasons, some of which relate to preserving their negotiating positions in commercial transactions with third

parties. In addition, contractual obligations with third-parties require that certain Confidential Information not be disclosed to the public. If Confidential Information is disclosed the public, including competing developers of wind energy facilities, the Applicants and other market participants could be placed at a competitive disadvantage.

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.

6. The competitive harm described in Paragraph 4 above, supports a determination that the Applicants’ interest in maintaining the confidentiality of the certain information outweighs the public's interest in disclosure. Moreover, the Committee has employed the above-referenced balancing test in the past and has granted protective treatment of this type of information in similar circumstances in the earlier phase of this proceeding. *See* Order Granting Applicant’s Motion for Protective Order and Approving Procedure for Treatment of Confidential, Commercial, or Financial Information, SEC Docket NO. 2008-04 (Nov. 4, 2008). Accordingly, the Committee should treat the information described above in a similar manner.

7. For the reasons discussed herein, the Applicants respectfully request that the Committee issue a protective order similar to that issued in SEC Docket NO. 2008-04 (see Paragraph

5, above), which makes clear that Confidential Information is available only to parties to this proceeding who have executed the confidentiality agreement attached hereto as Appendix A, or to Public Counsel as outlined below, and solely for the purpose of participation in the above-captioned proceeding.

8. As provided in the above-referenced Order issued in SEC Docket NO. 2008-04 the Applicants request that the Order contain the following provisions:

If a party desires to view the confidential information, said party will execute a protective agreement in the form set forth in Appendix A and forward true copies of the agreement to the Applicants and the Committee. Only parties authorized by the Committee, after receipt of the executed protective agreement, shall be afforded access to the confidential information. The parties shall not make any copies of such information or use the information for purposes other than the preparation for, and conduct of, the proceedings in this docket.

Unless otherwise ordered, the Parties shall not reference the confidential information during public proceedings in this docket or at any time in public. Upon completion of this proceeding and any resulting appeals, the Parties shall destroy any notes referencing the confidential information and return all confidential information to the Applicant. Within sixty days thereafter, each Party shall certify to the Applicant that said notes have been destroyed and all confidential information returned. The rights of the Parties under this order are not assignable and may not be transferred in any manner.

It should be noted that Counsel for the Public plays a special role in the proceedings before the Site Evaluation Committee. See RSA 162-H:9 (“The counsel shall represent the public in seeking to protect the quality of the environment and in seeking to assure an adequate supply of energy. The counsel shall be accorded all the rights and privileges, and responsibilities of an attorney representing a party in formal action and shall serve until the decision to issue or deny a certificate is final.”). Therefore, Counsel for the Public shall not be subject to the same protective order requirements as other parties to this proceeding. Counsel for the Public will be permitted the same access to the Confidential Information as the SEC itself. Counsel for the Public need not sign a non-disclosure or confidentiality agreement. However, Counsel for the Public shall not publicly disclose protected confidential information without first obtaining authority to do so from the SEC.

9. In accordance with N.H. Admin. Rule Site 202.14 (d) and (e), the Applicants have attempted to obtain concurrence of Mr. Roth from the Attorney General’s Office and the other party

that has requested intervention in this docket. Public Counsel and the Industrial Wind Action Group concur in the motion.

WHEREFORE, the Applicants respectfully request that this Committee:

A. Issue a protective order as requested herein that preserves the confidentiality of Confidential Information; and

B. Grant such further relief as it deems appropriate.

Dated: January 12, 2011

Respectfully submitted,

BROOKFIELD RENEWABLE POWER INC.

By  _____

and its Attorneys,

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and

GRANITE RELIABLE POWER, LLC

By  FOR DLP _____

and its Attorneys,

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Phone: (603) 224-2381

APPENDIX A

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

DOCKET NO. 2010-03

**JOINT APPLICATION BY GRANITE RELIABLE POWER, LLC
AND BROOKFIELD RENEWABLE POWER INC. FOR APPROVAL TO
TRANSFER EQUITY INTERESTS IN GRANITE RELIABLE POWER, LLC
UNDER RSA CH. 162-H**

I, _____, hereby certify that I am party to the above-captioned proceeding and in connection with my interests therein, I request that I be given access to the following Confidential Information in connection with the above-referenced proceeding: _____
_____. I further certify that I have read the Site Evaluation Committee's protective order issued in the above-captioned matter, understand it and agree to be bound by it. I understand that this Appendix A does not authorize my access to the above Confidential Information until I have signed and delivered it to counsel for Granite Reliable Power, LLC and Brookfield Renewable Power, Inc. and until it has been provided to the Site Evaluation Committee.

Dated: _____

Signature of Party to Docket No. 2010-03