

June 27, 2006

Energy Planning Advisory Board
Concord, NH 03301

Energy Stakeholder Forum

Dear Board Members:

Granite State Hydropower Association (“GSHA”) appreciates the opportunity to submit supplementary comments based upon presentations that were made on June 23, 2006 at the Stakeholder Forum.

1. Mandatory Power Purchase Obligation - GSHA previously noted that virtually all GSHA projects had been developed at a time when provisions of the Public Utility Regulatory Policies Act (“PURPA”) and New Hampshire’s Limited Electric Energy Producers Act (“LEEPA”) mandated that local utilities purchase the output from qualifying renewable facilities (including GSHA projects). GSHA noted that recent federal and state legislative changes have raised questions about whether local utilities, in a deregulated environment, still have the legal obligation to purchase power from Qualifying Facilities. For reasons explained below, GSHA believes that it may be appropriate to amend LEEPA to require all New Hampshire utilities to make purchases from QFs within their service territories, such purchases to be made at no less than the avoided costs of the ISO-New England power exchange (calculated on a short-term basis, in order to avoid any concerns about long-term rate orders at above-market rates).

New Hampshire utilities are governed by the provisions of both PURPA and LEEPA with respect to the purchase of power from Qualifying Facilities. Thus, if PURPA mandates that local utilities purchase power from Qualifying Facilities within their jurisdiction, the utilities would have such an obligation. If PURPA were amended to eliminate this obligation, GSHA believes the provisions of LEEPA then would govern the obligation of New Hampshire utilities with respect to mandatory QF purchases.

With respect to PURPA, the Energy Policy Act of 2005 contains a provision under which utilities can petition the Federal Energy Regulatory Commission

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(FERC) for authority to be relieved of the mandatory power purchase obligation from Qualifying Facilities. In response to petitions from many parties, the FERC has opened a docket to consider the criteria under which utilities would be granted such authority. Attached as Exhibit 1 is a filing made by GSHA in that docket that requests that the FERC find that small Qualifying Facilities be exempt from that ruling. The FERC docket is still open. Thus, there is the possibility that federal law no longer will require utilities to purchase the output from small Qualifying Facilities like the GSHA plants.

With respect to LEEPA, GSHA recently has reviewed the statutory provisions of this law. Much to its surprise, GSHA believes that there is a legal argument that can be made that New Hampshire utilities no longer are obligated to purchase power from Qualifying Facilities that do not sell power under long term rate orders or contracts. The basis for that belief is as follows. HB 485, which was passed in 1998, modified Section 362-A:3 of LEEPA. The legislative discussion (colloquy) which accompanied passage of HB 485 (see Exhibit 2) stated, in part,

“ The second provision of the bill removes the requirement from state law that a utility must purchase new sources of independent power, such as hydro or wood energy, once competition in the electric industry actually commences. ...”

Section 362-A:3 II, as modified, (see Exhibit 3) states that no purchases and related transactions involving QFs shall take place under RSA 362-A:3 or RSA 362-A:4 unless those purchases and transactions are made under existing NHPUC orders or previously existing power purchase contracts.

As GSHA previously has noted, many existing QF power purchase obligations (whether under NHPUC long-term rate orders or negotiated contracts) have begun to expire. It is GSHA's belief that most QFs with expiring agreements have been able to reach agreement with PSNH on new purchase agreements. PSNH is the utility in whose service area most GSHA projects have been located. The Agreement to Settle PSNH Restructuring, among other matters, addressed PSNH's responsibilities to make short-term purchases of IPP power pursuant to PURPA and LEEPA (see Exhibit 4). However, if GSHA is correct that PURPA may be amended to eliminate the mandatory power purchase obligation and if GSHA's reading of the 1998 LEEPA amendments is correct, then New Hampshire utilities may not have the legal obligation to purchase power from QF projects with expiring agreements nor will there be a mandatory power purchase obligation for new QF projects.

GSHA has explained that Qualifying Facilities necessarily incur extra costs if forced to wheel power to remote purchasers, thus placing them at a cost disadvantage to larger electrical plants that, in most cases, are directly interconnected to the electrical grid. GSHA believes that in its report and recommendations the Board should reaffirm the following findings on hydroelectric power contained in Section 8.2.5 at page 8.8 of the New Hampshire

Energy Plan issued by the Governor's Office of Energy & Community Services in November 2002 (see Exhibit 5):

Hydroelectric generation produces electricity using a free renewable fuel source, and has no emissions. Hydroelectric energy does raise concerns about impacts upon both aquatic and terrestrial ecosystems from change in stream flow and impoundments. Based upon existing dams and the lengthy environmental review process that would be required for siting a new project, it is unlikely that many (if any) new sites for hydroelectric generation will be developed in New Hampshire's foreseeable future. Nonetheless, the current hydro facilities in the state are an important part of our overall diverse energy portfolio, and policies that impact them should take this into consideration (italics added)..

As GSHA noted in its presentation, some New England utilities now seek to enter into power purchase agreements with QFs at a discount from the prevailing ISO-New England power exchange prices. Such a practice seems to be contrary to a desire to encourage the preservation of existing renewable energy projects. If its interpretation of LEEPA is correct, GSHA believes that LEEPA should be amended to require all New Hampshire utilities to make purchases from QFs within their service territories, such purchases to be made at no less than the avoided costs of the ISO-New England power exchange. During the legislative process, the size of the Qualifying Facilities covered by this legislation, the power rate, recovery of administrative charges by the utility and other such factors could be addressed.

2. Renewable Portfolio Standard With regard to the adoption of a New Hampshire Renewable Portfolio Standard ("RPS") program, GSHA endorses the comments made by Mr. Robert Olson at the June 23, 2006 Energy Stakeholder Forum regarding the specific provisions that should be incorporated in an RPS program.

3. Deregulation Lastly, after listening to the various presentations made at the stakeholders meeting, GSHA would like to add its comment to the deregulation/hybrid debate. GSHA believes that the hybrid structure has worked well for New Hampshire in the past and probably will continue to offer benefits to New Hampshire ratepayers. Those who argue for a pure deregulated environment ignore the fact that even within ISO-NE, a pure deregulated market economy has not worked well (i.e., the need to institute LICAP). Deregulation proponents also ignore the fact that the State of Vermont has not deregulated its energy market nor is Vermont presently considering deregulation. As much as GSHA urges your Board to recommend that small QF projects be treated differently from large QF generators, GSHA believes New Hampshire ratepayers may benefit from continued utility ownership of *existing* generating assets, especially since New Hampshire's load requirements are growing. Purchasing some, but not all, of

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New Hampshire's electrical requirements on the open market may prove to be the best option for New Hampshire.

GSHA appreciates the opportunity to submit these supplementary comments, looks forward to participating in the future activities of the Board and would be happy to provide additional information about GSHA and its member projects if so requested.

Sincerely,

GRANITE STATE
HYDROPOWER ASSOCIATION

Richard A. Norman
President

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