

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

**SEC DOCKET NO. 2019-02**

**APPLICATION OF CHINOOK SOLAR, LLC FOR A CERTIFICATE OF SITE  
AND FACILITY FOR THE CHINOOK SOLAR PROJECT IN FITZWILLIAM,  
NEW HAMPSHIRE**

**Applicant's Motion for Protective Order and Confidential Treatment**

NOW COMES Chinook Solar, LLC ("Chinook"), by and through their attorneys, and respectfully requests that the New Hampshire Site Evaluation Committee ("the Committee") issue a protective order to preserve the confidentiality of financial information and information relating to archaeological resources data. In support of this request, Chinook states the following:

1. Chinook is filing an Application for a Certificate of Site and Facility to construct a 30MW solar generating facility in Fitzwilliam, New Hampshire ("the Application"). As required by the Committee rules, the Application contains sensitive financial information, and information relating to archaeological resources data. The sensitive financial information is included in Appendix 12B. The archaeological resources data is included in Appendices 14A and 14C. The information for which Chinook is seeking confidential treatment has been redacted from the copies filed with the Committee and provided to others. We have submitted to the Committee one unredacted hard copy of the confidential materials in an envelope clearly marked as "CONFIDENTIAL" and one separate thumb drive with the confidential materials also clearly marked.

2. The New Hampshire Right-to-Know law, RSA 91-A, provides that governmental records are generally made available for public inspection, subject to certain exemptions which are spelled out in RSA 91-A:5. *See also* Admin. Rule Site 104.01(b). One of those exemptions is for “confidential, commercial, or financial information...and other files whose disclosure would constitute invasion of privacy.” RSA 91-A:5, IV. Similarly, New Hampshire’s Historic Preservation Act contains a provision requiring confidential treatment of information which may identify the location of an archaeological site. RSA 227-C:11. This Committee has long recognized the need to keep these categories of information confidential. *See* Order on Motion for Protective Order and Confidential Treatment, December 22, 2016 in SEC Docket No. 2015-04 (“SRP Confidentiality Order”); *see also*, Order on Motion for Protective Order and Confidential Treatment, July 6, 2016 in SEC Docket No. 2015-02 (“Antrim Wind Confidentiality Order”).

3. In evaluating whether to grant a motion for confidential treatment the Committee has indicated that the standard of review requires that it undertake a three step analysis to determine whether information should be exempt from public disclosure. SRP Confidentiality Order at 2. The first prong of that analysis is to determine if the Applicant has identified a privacy interest. If there is a privacy interest, the second prong of the analysis involves an assessment of whether there is a public interest in disclosure, recognizing that disclosure should inform the public of the activities and conduct of the government. Finally, if there is a public interest in disclosure, then the third prong requires a balancing of the public interest in disclosure against any privacy interests in non-disclosure.

4. When the Committee has undertaken this analysis in the past it has arrived at the conclusion that *pro forma* financial statements should not be disclosed. Antrim Wind Protective Order at 7. *See also* Order on Partially Assented-to Motion for Protective Order and Confidential Treatment for Certain Confidential, Commercial, and Financial Documents, SEC Docket No. 2009-02 (June 9, 2010) (granting confidential treatment for business plans and financial models); 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) (granting confidential treatment for commercially sensitive and proprietary financial information to avoid an adverse effect upon the applicant's ability to successfully negotiate commercial transactions).

5. The Committee has also concluded that archaeological resource information should be exempt from disclosure. SRP Confidentiality Order at 4.

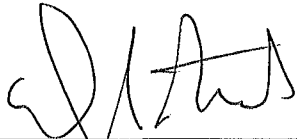
6. We submit that the same analysis that the Committee has used in the past applies here and that the categories of information described above should be granted confidential treatment, subject to similar provisions as the Committee imposed, and the execution of a similar protective agreement as was attached to the SRP Confidentiality Order.

7. Chinook also requests that should it be required to submit additional confidential materials or documents relating to these categories of information later in this docket, or to the extent that any of this information is offered as evidence at any hearing before the Committee, that the Committee afford similar protection to such information.

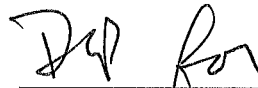
**WHEREFORE**, Chinook respectfully requests that the Committee:

- A. Grant Chinook's request that the materials described above remain confidential and issue a protective order to preserve that confidentiality; and
- B. Grant such other relief as the Committee deems appropriate.

Respectfully submitted,  
**Chinook Solar, LLC**  
By Its Attorneys



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Dated: October 18, 2019

**Certificate of Service**

I hereby certify that a copy of the foregoing motion has on this 18<sup>th</sup> day of October 2019 been sent by email to the service list in SEC Docket No. 2019-02.

By: \_\_\_\_\_

Douglas L. Patch

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