

**STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

and

**STATE OF MAINE
LAND USE PLANNING COMMISSION**

IN THE MATTER OF:)
)
CENTRAL MAINE POWER COMPANY)
NEW ENGLAND CLEAN ENERGY CONNECT)
)
L-27625-26-A-N)
L-27625-TB-B-N)
L-27625-2C-C-N)
L-27625-VP-D-N)
L-27625-IW-E-N)
)
SLC-9)
)

GROUP 4 OBJECTION TO CMP’S PETITION TO REOPEN RECORD

On September 18, 2019, Central Maine Power Company (CMP) petitioned the Department and Commission to reopen the record in the above-captioned matter so that CMP can introduce evidence related to a new proposed route that purports to avoid the Recreation Protection (P-RR) subdistrict at Beattie Pond (CMP Petition). On September 19, 2019, the Presiding Officers for both the Department and Commission notified parties that they would accept written comments in response to CMP’s petition until 5:00pm on September 26, 2019. Intervenor Group 4 (consisting of the Appalachian Mountain Club, Natural Resources Council of Maine, and the Maine Council of Trout Unlimited) respectfully submit the following comments.

The record in the above-captioned matter has been closed since May 2019¹ and briefing concluded on June 28, 2019. Commission staff released a Staff memorandum and Draft Decision Document on September 4, 2019, and the Commission decided to continue deliberations on the NECEC matter in October because “it was evident that there was a lack of consensus.” Email to NECEC distribution list from Bill Hinkel, forwarding email from Jim Britt, DACF Communication Director, “LUPC Tables New England Clean Energy Connect Deliberation,” Sept. 11, 2019. CMP’s Petition, submitted only after it became clear that the Commission had significant concerns about CMP’s proposed route through the Beattie Pond Recreation Protection subdistrict, calls for reopening the record “for the limited purpose of introducing this new evidence” and does not propose any opportunity for cross-examination of CMP’s new evidence, intervenor testimony, or any public input of any kind. CMP Petition at 3. Intervenor Group 4 objects to the introduction of this “new” evidence at this late date in this proceeding, without a demonstration by CMP of “good cause” as required by Chapter 3, sec. 24 of the Department’s Rules, and without a) an opportunity for robust public input on this new information, b) an opportunity for intervenor groups to cross-examine CMP on this new evidence, and c) an opportunity for intervenor groups to submit rebuttal evidence relevant to this newly proposed alternative route. CMP should not be allowed to avoid a comprehensive and public evaluation of this still-flawed project by submitting an alternative route at this late stage in the review process by requesting that only CMP be allowed to add to the record.²

¹ The record officially closed on May 9, 2019, with limited exceptions for three sets of documents and information from specific parties. Public (non-intervenor) comment was allowed until May 20 with public (non-intervenor) rebuttal comments allowed until May 27, 2019.

² CMP’s filing related to this route modification consists of 79 pages of new information. The Department’s rules contemplate modification of a pending application prior to a scheduled hearing but do not offer guidance on a permit modification after the record is closed and briefing is completed. Ch. 3, sec. 17 (“An applicant who modifies a pending license application within

While Group 4 supports any effort to reduce the environmental and scenic impacts of this proposed transmission line on Maine's environment, the timing of this new information, and CMP's repeated disregard for the adequacy of public review and analysis of its proposed project, urge caution. Throughout this proceeding CMP has failed to provide decision-makers or the public a complete application, requiring numerous project amendments and additional hearing date to accommodate hundreds of pages of an after-the-fact alternatives analysis. This most recent filing to reopen the record for yet another amendment, four months after the close of the record, continues this troubling pattern.

CMP's Petition merely highlights the inadequacy of CMP's alternative analysis. CMP admits that this alternative route was initially dismissed from consideration because of cost concerns. CMP Petition at 2. CMP's quickness to reject a viable alternative due to cost concerns only to revisit those abandoned alternatives later raises significant questions about what other alternatives were inadequately reviewed and prematurely dismissed by CMP due to perceived cost or logistical barriers. Additionally, due to the lateness of this new alternative route, it was not included in the discussions surrounding raising pole heights, tapering vegetations, or undergrounding all or portions of the route.

For the foregoing reasons, Group 4 respectfully objects to CMP's Petition to reopen the record "for the limited purpose of introducing this new evidence." In the event that the

sixty days prior to a scheduled hearing shall notify the Presiding Officer at the time of filing of the modification with the Department." Where a modification is offered prior to a hearing, "the Presiding Officer may provide an opportunity to submit written testimony in response to the proposed modification, postpone the hearing, or take any other appropriate action to ensure that all parties have a full and fair opportunity to address the modification and prepare for the hearing." *Id.* While the rule does not contemplate allowing a permit modification at this late stage of a proceeding, if this new information is allowed, it seems reasonable to, at a minimum, provide parties the same level of opportunity to address the modification as would be provided before the record closed.

Department and Commission determine that it is appropriate to reopen the record, Group 4 respectfully requests that intervenors be provided an opportunity to cross-examine CMP's witnesses and submit rebuttal testimony and that the public be allowed to comment on this new information.

Dated September 26, 2019

Respectfully Submitted,

Intervenor Group 4
By their attorney/Spokesperson,



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