

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-TG-B-N/)
#L-27625-2C-C-N/#L-27625-VP-D-N/)
#L-27625-IW-E-N)

**RESPONSE OF CENTRAL MAINE POWER COMPANY
TO GROUPS 2, 4, AND 10'S APPEAL OF ELEVENTH PROCEDURAL ORDER**

A mere four days after filing their last-minute Motion for Reconsideration of the Tenth Procedural Order, Intervenor Groups 2, 4, and 10 make yet another last-minute, “expedited” appeal seeking to overturn the hearing officers’ denial of most of the Motion for Reconsideration, which the hearing officers set forth in their Joint Eleventh Procedural Order. Intervenor Groups 2, 4, and 10’s motion largely rehashes the same stale arguments that DEP and LUPC have soundly rejected, in another last-ditch effort to delay this proceeding. Intervenor Groups 2, 4, and 10’s Appeal should be denied for the following reasons.

First, Intervenor Groups 2, 4, and 10 appeal a fictional “decision denying Intervenorors [sic] request to submit rebuttal testimony and exhibits to Supplemental Testimony and Evidence.” *See* Appeal at 2. The hearing officers in fact did not deny that request; intervenors have the ability to submit rebuttal testimony and exhibits, on May 9, as part of their summary presentations. *See* Eleventh Procedural Order at ¶ 3.a.

Second, Intervenor Groups 2, 4, and 10's recurring request for additional hearing time is unnecessary, as shown from experience in this hearing. The supplemental testimony ordered by the DEP Presiding Officer in the Tenth Procedural Order is simply additional information related to the DEP's questions regarding information presented during the April 1-5 hearing, which allowed more than enough time for those topics (and others). As CMP noted in its April 29, 2019 Response to the Motion for Reconsideration of Intervenor Groups 2, 4, and 10, oral presentations and cross-examination at the April 1-5 hearing dates went quickly, causing all parties to consider further consolidation of the April hearing days and resulting in an early finish to the April 4 and April 5 hearing days even without such consolidation. For that reason, the schedule for May 9 was not "anticipated to be full" even before addressing the new material submitted on May 1, contrary to Intervenor Groups 2, 4, and 10's allegation. *See* Appeal at 3. Indeed, all parties agreed to allow Group 4's witness Dr. Calhoun to present her testimony and sit for cross-examination on May 9 (instead of during the April 1-5 portion of the hearing) in part because the May 9 schedule would allow sufficient time for this accommodation to Group 4 and Dr. Calhoun.

Third, Intervenor Groups 2, 4, and 10 assert that the May 9 hearing schedule is too long but also that the hearing schedule is not long enough to consider the "voluminous" supplemental testimony and allow for adequate cross-examination. *See* Appeal at 3. They complain that the May 9 hearing is 12.5 hours, overlooking the fact that 3.5 of those hours are for meals and breaks. Out of the other side of their mouth, they complain that there is insufficient time for cross-examination, but ignore the fact that during the April 1-5 hearing days they did not use all of the time allotted to them for cross-examination on similar issues. Further, the draft May 9 hearing schedule includes time for re-direct and re-cross. *See* Appeal at 4. And, in any case, they can hardly complain about being limited in their additional cross-examination given that

they would not have been afforded any time at all for additional cross-examination on most of these topics had the DEP not asked the follow-up questions that the supplemental testimony addresses.

Finally, Intervenor Groups 2, 4, and 10 mischaracterize CMP's supplemental testimony as "voluminous." *See* Appeal at 3. In fact, almost half of CMP's supplemental testimony consists of the Silvicultural Activities Reports of the Maine Forest Service (dating all of the way back to the year 2000), which are publicly available but which Mr. Goodwin included as an exhibit to his testimony as a convenience to the agencies and the intervenors in response to the DEP's request for this information. *See* Tenth Procedural Order Appendix B at Request 1. Similarly, much of what CMP provided in response to DEP's other questions is not new information, but is merely providing the clarity DEP requested. It likely is for that reason that the presiding officers afforded each of CMP's "soccer team's worth" of witnesses approximately the same amount of time to summarize their testimony as was afforded the intervenor witnesses.

For the foregoing reasons, the May 3, 2019 Appeal of Groups 2, 4, and 10 should be denied.

Dated this 6th day of May, 2019.



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