



November 12, 2019

Jim Beyer, Regional Licensing and Compliance Manager
Bureau of Land Resources
Maine Department of Environmental Protection
106 Hogan Road Suite 6, 3rd Floor
Bangor, Maine 04401

Bill Hinkel, Permitting and Compliance Regional Supervisor
Land Use Planning Commission
Department of Agriculture, Conservation and Forestry
22 State House Station
18 Elkins Lane
Augusta, Maine 04330

Re: Central Maine Power Company's New England Clean Energy Connect
Project

Messrs. Beyer and Hinkel,

Enclosed on behalf of Groups 2 and 10 is their Response to CMP's Petition to Reopen the Record and amend its application.

For the DEP:

4 copies

For the LUPC:

9 copies

Please do not hesitate to contact me should you have any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to be "Elizabeth Boepple".

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**STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

and

**STATE OF MAINE
LAND USE PLANNING COMMISSION**

| | | |
|--|---|----------------------------------|
| IN THE MATTER OF: |) | |
| |) | |
| CENTRAL MAINE POWER COMPANY |) | APPLICATION FOR SITE LOCATION OF |
| 25 Municipalities, 13 Townships/Plantations, |) | DEVELOPMENT ACT PERMIT AND |
| 7 Counties |) | NATURAL RESOURCES PROTECTION |
| |) | ACT PERMIT FOR THE NEW ENGLAND |
| L-27625-26-A-N |) | CLEAN ENERGY CONNECT |
| L-27625-TB-B-N |) | |
| L-27625-2C-C-N |) | |
| L-27625-VP-D-N |) | |
| L-27625-IW-E-N |) | |
| |) | |
| CENTRAL MAINE POWER COMPANY |) | |
| NEW ENGLAND CLEAN ENERGY CONNECT |) | |
| SITE LAW CERTIFICATION SLC-9 |) | |

**GROUPS 2 AND 10’S REPLY TO CENTRAL MAINE POWER COMPANY’S
ADDITIONAL EVIDENCE IN SUPPORT OF ITS AMENDMENT**

Intervenor Group 2 and Intervenor Group 10 (collectively, “Groups 2 and 10”) by and through their attorneys, BCM Environmental & Land Law, PLLC, file this Reply to Central Maine Power Company’s (“CMP”) filing relevant to its proposed New England Clean Energy Connect (the “Project”) Natural Resources Protection Act (“NRPA”) application amendment to the Department of Environmental Protection (the “Department”) and Site Location of Development Law permit amendment (the “Amendment”) to the Land Use Planning Commission (the “Commission”). CMP’s Amendment proposes to change a section of the route

designed to run through Recreation Protection (P-RR) subdistrict at Beattie Pond. In light of CMP's newly submitted evidence in support of its requested route change – evidence and new route section that were not available before the deadline for the Intervenors to submit briefing on the legal standards – the following is submitted in supplement to Groups 2 and 10's Post Hearing Brief.

CMP filed its NRPA application dated September 27, 2017. At various times from then until the close of the record, CMP supplemented its application multiple times in response to challenges or questions raised about the adequacy of its application. During that time, Intervenors submitted significantly broad testimony and exhibits, and the public submitted extensive comments. The Department and Commission also held multiple days of in-person hearings. The collection of evidence culminated with the close of the record in May, 2019. On June 28, 2019, all parties completed their briefing. On September 11, 2019, the Commission held a deliberative session. During the deliberative session, individual Commissioners expressed concerns about the project's incompatibility with existing uses in the subdistricts. Seeing that the necessary five votes to take action were not there, the Commission chair postponed further deliberation or action. On September 18, 2019, a mere seven days later, CMP submitted to the Department and the Commission a petition to reopen the record with attachments that described an amendment to the Site Law and NRPA applications that would change the proposed route in the area near Beattie Pond – an amendment precisely targeted to address Commissioner concerns about this special resource.

CMP's request to reopen the record for the stated, "limited purpose of accepting evidence relevant to an alternative to the existing Project route that avoids the Recreation Protection (P-

RR) subdistrict at Beattie Pond.”¹ was granted and the record was reopened on October 3, 2019. Intervenor responses to the Amendment are due on November 12, 2019. CMP’s reply to Intervenor responses and public comment are both due by 5:00 p.m. on November 26, 2019 when the Department and Commission will again close the record.

Groups 2 and 10 agree that the new location avoids Beattie Pond and consequently eliminates the negative impacts on *this particular* special resource by removing a small segment of the route from this sub-district. However, the short time frame to study this new area and the inability to give this new route adequate peer review leaves open the question of whether there are *other* as yet unidentified, negative affects created in this newly impacted area. It is also important to note that simply shifting 1 mile of the 53 miles through Maine’s north western woods does not suddenly make the entirety of the 145 mile corridor acceptable nor mean that CMP has met its burden of proof under either the Department’s or the Commission’s legal standards.²

Moreover, as Groups 2 and 10 queried in our objection to reopen the record, if this Amendment was suddenly viable only after CMP saw the Commission unable to reach the five votes needed for action, how many other alternatives might also be available if CMP hears similar concerns from the Department or the Commission about other locations? What other negotiations might be going on behind the scenes?

¹ Petition of Central Maine Power Company to Reopen Record, p. 1.

² As stated in the Commission’s Rules of Practice, Chapter 4.3(9), the burden of proof is on the applicant, CMP, to “demonstrate by substantial evidence that the criteria of all applicable statutes and regulations have been met,” Chapter 2, section 11(F), of the Department’s rules state:

“An applicant for a license has the burden of proof to affirmatively demonstrate to the Department that each of the licensing criteria in statute or rule has been met. . . For those matters relating to licensing criteria that are disputed by evidence the Department determines is credible, the applicant has the burden of proving by a preponderance of the evidence that the licensing criteria are satisfied.”

This most recent Amendment is merely the latest in a now two-year history of CMP waiting until they were called out before submitting evidence or an alternative that would reduce the negative impacts of this large-scale industrial project; clear signs that CMP continually fails to appreciate the significance of Maine's scenic and environmental resources. Despite CMP's ongoing attempts to put lipstick on the NECEC pig,³ the Project remains incompatible with existing uses in the affected P-RR subdistricts, and continues to present an unreasonable interference with the scenic character, existing scenic, aesthetic, and recreational uses and fails to fit harmoniously into the natural environment.

The process laid out by the legislature and refined by rule is being circumvented here by CMP's piece meal approach to this project. CMP has changed and supplemented its application multiple times along the way including during the hearing process when it finally undertook an alternatives analysis, albeit a deficient one as we argued and illustrated by the evidence in our post-hearing brief. It did so with the underground crossing of the Kennebec and is doing so now with the Amendment. A thoughtful, considered and complete project has never been in front of the Department or the Commission. CMP's rush to complete the process and close the record is once again showing how incomplete CMP's application truly was: alternatives were explored only after the hearings began and this new alternative is a band aid on the bow to stern gouge the corridor will create in our northwest woods.

In sum, a change to 1 mile of the 145 mile, 150 wide corridor is not the magic fix to an inherently flawed project. It continues to fail the required legal standards necessary to receive

³ CMP's public relations campaign includes the recent appearance of Hydro Quebec CEO, Eric Martel on Maine Public's radio program, Maine Calling, during which he re-stated unsubstantiated green energy benefits as those spouted by CMP Vice President Thorn Dickinson during the hearings and which have been debunked. <https://www.mainepublic.org/post/hydro-qu-bec-ceo-ric-martel-discusses-power-companys-priorities-and-presence-maine>.

permits from the Department and the Commission meanwhile bringing no benefit to Maine's energy needs and eroding the value of what Mainers hold dear: "resources... [with] great scenic beauty and unique characteristics, unsurpassed recreational, cultural, historical and environmental value."⁴

Respectfully Submitted,

Intervenor Group 2 and Intervenor Group 10
By their attorneys,



Dated: November 12, 2019

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⁴ 38 MRS-A § 480-A.