

## Miller, Susanne

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**From:** Miller, Susanne  
**Sent:** Wednesday, May 29, 2019 2:42 PM  
**To:** gerry.mirabile@cmpco.com; mmanahan@pierceatwood.com; magoodwin@burnsmcd.com; Miller, Susanne; DEP, NECEC; Bergeron, Mark; Stratton, Robert D; Puryear, Kristen; Rideout, Megan M; Jay.L.Clement@usace.army.mil; Melissa.Pauley@hq.doe.gov; Bensinger, Peggy; Parker, Lauren; bpw1@midmaine.com; leadley@myfairpoint.net; ashli.goodenow@gmail.com; oldcanadaroad@myfairpoint.net; Steven.Zuretti@brookfieldrenewable.com; jtalbert@preti.com; robert.wood@tnc.org; egreen@clf.org; pturner@clf.org; Carrie\_carpenter@rocketmail.com; eshermanbpr@gmail.com; kbraft@gmail.com; klyman9672@gmail.com; manfarr1974@yahoo.com; mwagner@insourcerenewables.com; 1withwhitewaters@gmail.com; twalkerfilm@gmail.com; diblasi.tony@gmail.com; Beckie@lametrochamber.com; mspils15@hotmail.com; caratunkselectmen@myfairpoint.net; info@kennebecriverangler.com; gcaruso@myfairpoint.net; ebuzzel@hotmail.com; ABuxton@preti.com; RBorowski@preti.com; EBarrett@lewistonmaine.gov; burgess@ibew104.org; Amarin@mainechamber.org; Benjamin.Smith@SoltanBass.com; jtourangeau@dwmlaw.com; Brian.J.Murphy@nexteraenergy.com; ehowe@dwmlaw.com; mnovello@wagnerforest.com; hawksnestlodge@gmail.com; dpublicover@outdoors.org; cjohnson@nrcm.org; nbennett@nrcm.org; sely@nrcm.org; Jeffrey.Reardon@tu.org; dhedrick@roadrunner.com; Hobbins, Barry; boepple@nhlandlaw.com; gpetruccelli@pmhlegal.com; Roger Merchant; Hinkel, Bill  
**Subject:** NECEC Ruling on May 28, 2019 Motion to Strike

Good afternoon:

This e-mail is the DEP Presiding Officer's response to the Applicant's May 28, 2019 motion to strike the May 24, 2019 filing by Group 1.

On May 10, 2019 after the close of the hearing, the Presiding Officer wrote to the parties to clarify and in some cases modify deadlines for post-hearing information that the parties were allowed to submit. The e-mail stated:

"The record is closed except that three sets of documents and information will be allowed to be submitted by specific parties by 5:00 pm Friday May 17th. These are:

- Existing maps to be submitted by Dr. Simons-Legaard/Intervenor Group 6 in response to questions from the Department.
- Cost Breakdown to be submitted by the Applicant in response to questions from Mr. Bergeron from the Department. (Mr. Bergeron requested costs, dollars, or a numerical backup sheet for CMP Exhibits: 11-B through 11-G of Mr. Bardwell's pre-filed rebuttal testimony dated 3.25.19)
- Engineering information pertaining to pole heights and possible tree heights to be submitted by the Applicant in response to questions from Mr. Beyer from the Department. (Mr. Beyer will be sending around maps and more direction on this request soon).

Parties will have an additional week to review and respond to the above documents and submit them by 5:00 pm Friday May 24th."

On May 24, 2019, an e-mail with attached comments "regarding the proceeding of the May 9 hearing" was submitted by Intervenor Group 1.

On May 28, 2019, the Applicant moved to strike the Group 1 submittal, asserting that the comments presented by Group 1 did not respond to the requested filings submitted by the Applicant on May 17, 2019. The Applicant contends that the Group 1 submittal does not directly address any of the Applicant's post-hearing filings, or the post-hearing filing by Dr. Simons-Legaard. In addition, the Applicant reiterates that all other comments on the pending application were due by May 9, 2019 at the close of the hearing.

The Presiding Officer concludes that the comments do not directly respond to the May 17, 2019 submittals. The comments are filed by a party, on hearing issues and thus could not have been filed as comments on non-hearing issues. Therefore the Group 1 May 24, 2019 submittal is stricken. The arguments made in the comments, however, may be appropriately made in post-hearing briefs which are due June 14, 2019 at 5:00 pm.

Please direct any follow up questions to Mr. Jim Beyer at the Department. Thank you.

**Susanne Miller**

Director, Eastern Maine Regional Office  
Maine Department of Environmental Protection  
(207) 941.4190 (desk) / (207) 557.2700 (cell)

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