

**STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

and

**STATE OF MAINE
LAND USE PLANNING COMMISSION**

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

GROUPS 2 AND 10’S OBJECTIONS AND MOTION TO STRIKE

Intervenor Group 2 and Intervenor Group 10 (collectively, “Groups 2 and 10”) by and through their attorneys, BCM Environmental & Land Law, PLLC, request the following rebuttal testimony be stricken for all the reasons stated as follows:

Group 3¹’s Witness Robert Meyers. Mr. Meyers provides nothing in rebuttal in support of his assertions other than to say he does not agree with the statements of other witnesses who he fails to identify. This is not rebuttal but rather a repeat of his direct testimony and should therefore be stricken.

¹ Group 3 is comprised of Industrial Energy Consumer Group, City of Lewiston, International Brotherhood of Electrical Workers Local 104, Maine Chamber of Commerce, and the Lewiston/Auburn Chamber of Commerce (admitted to the LUPC proceeding only).

Group 7's witness Joseph Christopher's Rebuttal testimony and all exhibits. Mr. Christopher's testimony does not rebut the testimony of Ms. Caruso but rather attempts to introduce a comparison of other scenic areas already spoiled by industrial infrastructure. It is not relevant to the topic of the existing uses and the scenic character of *this area* of Maine. Additionally, the exhibits are of unidentified areas along other rivers which therefore are not relevant to the scenic character and existing uses *on this river and along this project route*. The testimony and exhibits should be stricken.

CMP's Comments on Green House Gas Emissions. CMP now seeks to submit new and additional information through the public comment process on its unsubstantiated claims in its application that the project will result in a reduction of green house gas emissions. After repeatedly arguing that green house gas emissions as a topic should not be considered, they now seek to introduce information, if relevant, that should have been part of their application and doing so in a manner specifically set forth for use by "The Parties and the general public." The Department's Third Procedural Order dated February 5, 2019 states: "The Parties and general public will be allowed to submit evidence with regard to those statements in the application which may include, for example, comments, data and reports, until the close of the record." CMP filed its application with those unsubstantiated statements without supporting information in a likely attempt to make the project appear more environmentally friendly than it actually is. To now supplement the application in the guise of "comments" distorts the process and disadvantages all those who are striving to provide the Department with timely and relevant materials for their serious consideration. For these reasons, CMP's "comments" on green house gas emissions should be struck or they

should be Ordered to amend their application under the process set forth in Chapter 3, section 17 of the rules governing the DEP's proceedings in these matters.

CMP's witnesses Thorn Dickinson, Gerry Mirabile, Jason Tribbet, Justin Bardwell, Kenneth Freye. CMP Witnesses Thorn Dickinson and Gerry Mirabile Rebuttal Testimony and all associated exhibits related to Alternatives Analysis, CMP new witness Testimony of Justin Tribbet, Justin Bardwell and Kenneth Freye and associated exhibits related to Alternatives Analysis should all be stricken. CMP cloaks these witnesses, their testimony and new information related to the Alternatives Analysis in the mantle of rebuttal testimony. It is not. It is in fact an Alternatives assessment that CMP specifically stated under oath at the PUC hearings not once, but at least twice, that it *had not* conducted. The following section of the transcript provides evidence of that:

MS. CARUSO: Did you ever evaluate the scenic or visual impact of burying the line versus not burying the line?

MR. DICKINSON: No, we did not. And we also didn't evaluate the various impacts of a buried DC line through a new corridor.

MS. CARUSO: So you chose to bury the line under the Kennebec but not for the entire 53 miles?

MR. DICKINSON: Well, our original --

MS. CARUSO: Was cost the primary --

MR. DICKINSON: I'm sorry.

MS. CARUSO: Sorry?

MR. DICKINSON: Sorry, go ahead.

MS. CARUSO: Was cost the primary reason for not burying the line?

MR. DICKINSON: We believed it was the simplest, and obviously cost was a component of that. But we also believed it was the one that made the most sense.

MR. TANNENBAUM: Can I just follow up quickly? Did -- I wasn't sure I heard this right. Did CMP conduct an analysis of what it would cost to bury the line in the new corridor?

MR. DICKINSON: No.

CRTK 1, Maine Public Utilities Commission, Docket No. 2017-32, January 9, 2019, transcript, pg.89-90.

The following colloquy from another hearing day before the Public Utilities Commission also illustrates that CMP did not conduct an underground Alternatives Analysis:

MR. MURPHY: This memo focuses on undergrounding under the river, and I'm curious whether there was a similar memo or effort to consider undergrounding in the 57 miles of the green field corridor.

MR. DICKINSON: No, there wasn't.

MR. MURPHY: Going back to the first page of the tab, this is really a follow up to Sue's question where you mention that you would not use the words "cost prohibitive," and just clarifying why would you not use those words?

MR. DICKINSON: I mean, in the end, we wouldn't have -- if it was cost prohibitive, we wouldn't have included it as a contingency. We determined that the project would still be -- in my mind, cost prohibitive means the project can't move forward if that's the proposal. So instead, we considered this as a possibility and included it as a specific contingency in the project. And as a result, when we made the decision to go underground, that was something we had considered.

MR. MURPHY: And underground under the river but not for the 57 miles?

MR. DICKINSON: Correct.


In Re: Central Maine Power Company, Maine Public Utilities Commission, Docket No. 2017-232, November 28, 2018, transcript, pg. 37.

As with CMP's attempt to avoid amending its application by submitting information related to green gas house emissions in the form of "comments", this attempt to submit an underground Alternatives Analysis through the rebuttal portal is equally a contravention of the process and should not be allowed. CMP knew and admitted under oath as far back as when it testified before the PUC in November that it had not conducted an underground Alternatives Analysis. CMP knew full well the concern of many Intervenors in the northern section of the proposed route and yet, instead of amending its application, it chose to wait and sand bagged the Intervenors by submitting an underground Alternatives Analysis through rebuttal. CMP should be told to provide the underground Alternatives Analysis in an amended application thereby providing the Intervenors and the public the due process afforded by the rules. Their efforts to circumvent that process should be sanctioned by striking the testimony and exhibits. In the alternative, CMP should be ordered to amend its application if it wishes to have the information considered. Then,

sufficient time should be provided for the Parties to review the underground Alternatives Analysis and provide testimony and evidence in an orderly and time considerate manner for consideration by the DEP and LUPC.

For all of the foregoing reasons, Intervenor Groups 2 and 10 respectfully request that the DEP and LUPC grant Intervenor Groups 2 and 10 Motion to Strike.

Respectfully Submitted,
Intervenor Group 2 and Intervenor Group 10
By their attorneys,



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