



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



JANET T. MILLS
GOVERNOR

GERALD D. REID
COMMISSIONER

IN THE MATTER OF

CENTRAL MAINE POWER COMPANY)
 NEW ENGLAND CLEAN ENERGY)
 CONNECT) APPLICATION FOR NATURAL
 25 Municipalities, 13 Townships/Plantations,) RESOURCES PROTECTION ACT PERMIT
 7 Counties) AND SITE LOCATION OF DEVELOPMENT
 L-27625-26- A-N) ACT PERMITS
 L-27625-TB-B-N) PUBLIC HEARING
 L-27625-2C-C-N) APPEALS OF FIFTH PROCEDURAL ORDER
 L-27625-VP-D-N)
 L-27625-IW-E-N)

On March 15, 2019, the Department and the Land Use Planning Commission (Commission) received an appeal to the Commissioner of the Department and the Commission as a whole, in the case of the Land Use Planning Commission proceeding, from Intervenor Groups 2 & 10 of portions of the Fifth Procedural Order issued by the Presiding Officers on March 13, 2019. In the Fifth Procedural Order, the Presiding Officers struck certain portions of Intervenor Groups 2 and 10's pre-filed, direct testimony. Intervenor Groups 2 & 10 appealed the striking of:

- The Revised Cover Pages for Groups 2 and 10 Witnesses' Pre-filed Testimony.
- Robert Merchant's Supplemental Exhibit 7.
- Witness Greg Caruso's Pre-filed Testimony in its entirety.

The Applicant filed a response to the Appeal stating that granting the appeal would prejudice the Applicant because rebuttal testimony is due on March 21, 2019 and there would not be enough time to incorporate rebuttal testimony to any material re-instated into the hearing record.

This Order constitutes the decision of the Commissioner of the Department of Environmental Protection on the appeal filed in its proceeding. This decision is based on a review of the materials submitted, the sections of the pre-filed testimony that were stricken, and the relevant portions of the Procedural Orders.

- 1) The Presiding Officer's ruling striking the Revised Cover Pages for Groups 2 and 10 Witnesses' Pre-file Testimony is upheld and the appeal of that portion of the Fifth Procedural Order is denied. The coversheets were not submitted in a timely fashion. The striking of these cover sheets has no bearing on the substantive testimony by these witnesses, which was allowed. The Department will consider the testimony which is relevant to the hearing topics for each proceeding without the revised cover sheets.

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826

BANGOR
106 HOGAN ROAD, SUITE 6
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04769
(207) 764-0477 FAX: (207) 760-3143

- 2) The Presiding Officer's ruling striking Robert Merchant's Supplemental Exhibit 7 is also upheld and the appeal of that portion of the Fifth Procedural Order is denied. It was not submitted by the deadline for pre-filed testimony and exhibits. Nothing in this ruling limits the Department's consideration of Mr. Merchant's testimony as originally submitted.
- 3) The Presiding Officer's ruling striking Greg Caruso's Pre-filed Testimony is reversed and the appeal of that portion of the Fifth Procedural Order is granted. The submission of the signature page is allowed, and the testimony will be considered as if timely filed. The Commissioner accepts counsel's representation that a clerical error resulted in the omission of the signature page, and finds that the exclusion of the testimony is not necessary or appropriate under these circumstances.

In its response to the appeal of Groups 2 and 10, the Applicant argues that it would not have time enough to respond and prepare rebuttal if Mr. Caruso's testimony were to be reinstated. To address this concern the deadline for rebuttal testimony to the Department, for all parties and all witnesses, will be extended to 5:00 pm, Monday, March 25, 2019. The Commission will address the appeal and the rebuttal deadline in a separate ruling.

On March 14, 2019, the Department received an appeal from Intervenor Group 1 of portions of the Fifth Procedural Order issued by the Presiding Officers on March 13, 2019. Group 1 objects to the removal of four lines of Janet McMahon's testimony, on page 19: question #3 and the answer to question 3. The Presiding officer's decision to strike this portion of Ms. Mahon's testimony is upheld and the appeal is denied. The Question 3 which Ms. McMahon's answer addressed was whether the project would have an adverse impact on water quality. The general topic of Water Quality is not a topic being addressed at the hearing. In her response, Ms. McMahon referred to page 5, bullet 2. However, on page 5 there is no bullet #2. There is a discussion of impacts to headwater streams and catchment areas starting on page 9, in section 2 and ending on page 10 that discusses water quality as it relates to cold water fish habitat and habitat fragmentation. The Presiding Officer did not strike this portion of the testimony, only the question and the answer on page 19.

Dated: March 18, 2019



Gerald D. Reid
Commissioner