



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

To: Commission
From: Jonathan Wayne, Executive Director
Date: June 17, 2021
Re: Report on Meeting to Discuss Subpoena Objections

This memo is to report back to the Commission concerning a meeting between the Commission staff and James Monteleone, attorney for Stop the Corridor, in connection with the Commission's investigation of Stop the Corridor's 2019-20 activities to promote a citizen initiative opposing the New England Clean Energy Connect transmission project. We met by videoconference yesterday to explore whether the Commission staff could recommend modifications to the March 16, 2021 subpoena to satisfy legal objections raised by Stop the Corridor. The Commission's counsel, Jon Bolton, participated in the meeting, and as well as Commissioner William Schneider whom I invited after obtaining authorization from the Commission Chair.

Mr. Monteleone reiterated that his client's intention in 2019-2020 was to engage in limited financial involvement to assist in qualifying the initiative for the ballot while staying in compliance with Maine campaign finance law. We discussed his client's concerns with the March 16, 2021 subpoena, particularly having to disclose documents that included financial information unrelated to the citizen initiative. I explained the basis for some of the Commission's requests in the subpoena.

Mr. Monteleone engaged in a genuine effort to find an agreement. The exchange led to a greater understanding of both sides' points of view, but we could not reach common ground. I expressed some willingness to reduce the scope of a couple of the requests (#4 and #7), but I could not recommend modifying requests #1, #2, or #3. I suggested terminating the meeting, so that I could confer separately with Commission counsel and Commissioner Schneider. After consulting with them, I decided that I could not recommend modifying requests #5 or #6.

Staff recommendation: the Commission staff recommends:

- granting Stop the Corridor’s April 16, 2021 request by modifying the scope of request #4 to cover “All Documents discussing, describing, or otherwise showing the intended purposes or goals of any television advertising concerning NECEC transmitted during the period of November 1, 2019 to January 31, 2020 between STC, [confidential] and any other person,” and
- otherwise denying Stop the Corridor’s April 16, 2021 request.

Thank you for your consideration of this agenda item.

4. All Documents relating to television advertising concerning NECEC during the period of November 1, 2019 to January 31, 2020 transmitted between STC, [REDACTED] and any other person, including but not limited to:
 - a. electronic mail by or to [REDACTED] media buyers, or television outlets;
 - b. written plans, outlines of activities, campaign plans;
 - c. cost estimates or quotes; and
 - d. invoices.

5. All Documents relating to [REDACTED] or entities funded by or through [REDACTED], including but not limited to:
 - a. Documents transmitted between [REDACTED] and STC or [REDACTED] including but not limited to electronic mail, text or instant messages;
 - b. Documents containing descriptions of services or activities to be conducted by [REDACTED] or entities funded by or through [REDACTED];
 - c. Documents reflecting services provided by [REDACTED] or entities funded by or through [REDACTED], including but not limited to petitioning services, strategic advice, campaign management, advertising, or public opinion research;
 - d. Invoices or other requests for payment;
 - e. Documents reflecting payments to [REDACTED], including but not limited to checks or electronic transfers of funds, and
 - f. Documents reflecting the formation of [REDACTED] or registration as a business entity with a state government, such as a limited liability company operating agreement or a certificate or articles of incorporation.

6. All Documents relating to [REDACTED] or entities funded by or through [REDACTED], including but not limited to:
 - a. Documents transmitted between [REDACTED] and STC or [REDACTED], including but not limited to electronic mail, text or instant messages;
 - b. Documents containing descriptions of services or activities to be conducted by [REDACTED];
 - c. Documents reflecting services provided by [REDACTED] or entities funded by or through [REDACTED] including but not limited to petitioning services, strategic advice, campaign management, advertising, or public opinion research;

- d. Invoices or other requests for payment;
 - e. Documents reflecting payments to [REDACTED], including but not limited to checks or electronic transfers of funds, and
 - f. Documents reflecting the formation of [REDACTED] or registration as a business entity with a state government, such as a limited liability company operating agreement or a certificate or articles of incorporation.
7. Documents sufficient to show all polling questions for the following public opinion surveys:
- a. the August 2019 poll referenced in the documents produced by STC and [REDACTED] on February 1, 2021 that were bates-stamped STC00006, STC00161, and STC00169;
 - b. the November 2019 poll referenced on STC00005;
 - c. the January 2020 poll referenced on STC00009;
 - d. the April 2020 poll referenced on STC00542; and
 - e. any other public opinion survey conducted during the period of June 17, 2019 to August 13, 2020 that was financed by STC, [REDACTED] and that asked questions concerning a direct initiative relating to NECEC.
8. The contextual memorandum relating to polling results, referred to in the September 4, 2019 email from [REDACTED] (STC00161).
9. The campaign memo/recommendations document referred to in the March 16, 2020 email from [REDACTED] (STC00487).

This subpoena is issued on behalf of the Commission on Governmental Ethics and Election Practices, in conjunction with a Commission investigation to determine whether Stop the Corridor complied with campaign finance requirements in Title 21-A, Chapter 13, pursuant to 21-A M.R.S.A. § 1003. The Commission's attorney is Jonathan Bolton, Assistant Attorney General, Office of the Attorney General, 6 State House Station, Augusta, Maine 04333-0006. He may be contacted at (207) 626-8551 or Jonathan.Bolton@maine.gov.

NOTICE: A statement of your rights and duties pursuant to this subpoena is set out in 5 M.R.S. § 9060(1)(C) and (D). If you object to the subpoena, you must petition the Commission on Governmental Ethics and Election Practices to vacate or modify the subpoena before April 9, 2021. After such investigation as the Commission considers appropriate, it may grant the petition in whole or in part upon a finding that the testimony or evidence for which production is required does not relate with reasonable directness to any manner in question, or that a subpoena for the production of evidence is unreasonable or oppressive or has not been issued a reasonable period in advance of the time when the evidence is requested.

WARNING: Failure to comply with this subpoena shall be punishable as for contempt of court, pursuant to 21-A M.R.S.A. § 1003(1), 5 M.R.S.A. § 9060(1)(D) and Rule 66(c) of the Maine Rules of Civil Procedure.

Dated: 3/16/2021



WILLIAM A. LEE III, Esq., Chair
Commission on Governmental Ethics
and Election Practices

Definitions

“██████████” means ██████████ and its members, officers, board of directors, employees, and agents.

“Activities to support the NECEC initiative” means all activities supporting or promoting the Citizen Initiative to Reject NECEC, including but not limited to exploring the feasibility of the direct initiative, drafting legislation for the direct initiative, forming business entities, gathering signatures on petitions for the direct initiative, researching public opinion concerning the direct initiative, paying for video advertising or other communications to influence opinion concerning the direct initiative, or engaging in a political campaign in support of the direct initiative.

“██████████” means ██████████ and its members, officers, board of directors, employees, and agents.

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“Calpine Corporation” means Calpine Corporation and its members, officers, board of directors, employees, and agents.

“Citizen Initiative to Reject NECEC” means the direct initiative to enact legislation entitled “Resolve, To Reject the New England Clean Energy Connect Transmission Project” which the Maine Secretary of State approved on March 4, 2020 as having met the petitioning requirements for submission to the Legislature.

“Communication” means, without limitation, any exchange or transfer of information by any means (*e.g.*, whether oral, written, electronic, or by other methods). The term includes but is not limited to electronic mail, text or instant messages, regular U.S. Mail or other delivery service, or postings on social media.

"Documents" means all written, printed, or digitally or electronically stored material (translated, if necessary, into a reasonably usable form). The term includes but is not limited to Communications (as defined above), agreements, contracts, invoices, purchase orders, ledgers, financial statements, accounts, proposals, plans, budgets, projections of financial activity, government filings, computer-stored data or material, and audio/visual recordings.

“██████████” means the person(s) providing funding to ██████████ to finance activities by Stop the Corridor or ██████████ to oppose NECEC.

“██████████” means ██████████ and its members, officers, board of directors, employees, and agents.

“[REDACTED]” means [REDACTED] and its members, officers, board of directors, employees, and agents.

“Mainers for Local Power” means the political action committee of the same name registered with the Commission and its members, officers, board of directors, employees, volunteers, and agents.

“NECEC” means the New England Clean Energy Connect transmission project.

“No CMP Corridor” means the political action committee of the same name registered with the Commission and its members, officers, board of directors, employees, volunteers, and agents.

“Person” means any natural person, corporation, company, partnership, joint venture, firm, association, proprietorship, agency, board, authority, commission, office or other business or legal entity, whether private or governmental.

“Say No to NECEC” means Say No to NECEC and its members, officers, board of directors, employees, volunteers, and agents.

“STCXXXXX” refers to pages from the February 1, 2021 production of documents by Stop the Corridor and [REDACTED] that were bates-stamped with a five-digit number (e.g., STC00001).

“Stop the Corridor” and “STC” mean Clean Energy for ME, LLC and its members, officers, board of directors, employees, and agents.

“Vistra Corp.” means Vistra Corp. and its members, officers, board of directors, employees, and agents.

Previously provided invoices and other requests for money

For purposes of request #3 above, you may omit the 14 invoices from [REDACTED] provided in the February 1, 2021 document production (STC00001-STC00014) and the eleven emails requesting money (STC00135, STC00169, STC00323, STC00496, STC00497, STC00501, STC00575, STC00580, STC00596, STC00615, and STC00616).